

AMENDED IN SENATE APRIL 10, 2012

SENATE BILL

No. 1381

Introduced by ~~Senator~~ *Senators Pavley, Anderson, and Rubio*
(Coauthors: Senators De León, DeSaulnier, and Padilla)
(Coauthors: Assembly Members Ammiano, Blumenfield, Hill, and
Huffman)

February 24, 2012

An act to amend Sections 4502 and 17206.1 of the Business and Professions Code, to amend Section 1761 of the Civil Code, to amend Sections 8769, 16191, 16195, 16196, 16200, 41306, 41401, and 51765 of the Education Code, to amend Sections 854.2, 6514, 12428, 12926, 14670.1, 14670.2, 14670.3, 14670.5, 14672.1, 14672.92, 16813, 16814, and 16816 of the Government Code, to amend Sections 1275.5, 1337.1, 1337.3, 13113, 51312, 110403, 123935, 125000, 127260, and 129395 of the Health and Safety Code, to amend Sections 10118, 10124, and 10203.4 of the Insurance Code, to amend Sections 1001.20, 1346, 1370.1, 1376, and 2962 of the Penal Code, to amend Section 1420 of the Probate Code, to amend Section 25276 of the Vehicle Code, and to amend Sections 4417, 4426, 4512, 4801, 5002, 5008, 5325, 5585.25, 6250, 6500, 6502, 6504, 6504.5, 6505, 6506, 6507, 6508, 6509, 6511, 6512, 6513, 6551, 6715, 6717, 6718, 6740, 6741, 7275, 7351, and 11014 of, and to amend the headings of Article 2 (commencing with Section 6500) of Chapter 2 of, Article 4 (commencing with Section 6715) of Chapter 3 of, and Article 4 (commencing with Section 6740) of Chapter 4 of, Part 2 of Division 6 of, the Welfare and Institutions Code, relating to intellectual disability.

LEGISLATIVE COUNSEL'S DIGEST

SB 1381, as amended, Pavley. Mental retardation: change of term to intellectual disability.

Existing law, law refers to mental retardation or a mentally retarded person in provisions relating to, among other things, educational and social services, commitment to state facilities, and criminal punishment.

This bill would revise these provisions to refer instead to intellectual disability or a person with an intellectual disability. This bill would ~~express the intent of the Legislature to not make~~ *provide that nothing in these provisions shall be construed as making* a substantive change in law or a change to services or the eligibility for services in revising this terminology. *This bill would make related and technical changes.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) It is the intent of the Legislature to increase
2 respect for people with disabilities by eliminating the use of the
3 outdated, offensive, and misleading terms “mental retardation”
4 and “mentally retarded.”

5 (b) Nothing in this act shall be construed as making a substantive
6 change in law or a change to services being provided or eligibility
7 standards in effect at the time of enactment.

8 (c) *As used in a state regulation or state publication or other*
9 *writing, the terms “mental retardation” and “mentally retarded*
10 *person” have the same meaning as the terms “intellectual*
11 *disability” and “person with intellectual disability,” unless the*
12 *context or an explicit provision of federal or state law clearly*
13 *requires a different meaning.*

14 (d) *It is the intent of the Legislature that state agencies revise*
15 *state regulations, and state publications and other writings change*
16 *the terminology as required by this act when there is another*
17 *reason to revise the regulation, publication, or other writing, thus*
18 *eliminating any additional state cost.*

19 SEC. 2. Section 4502 of the Business and Professions Code is
20 amended to read:

21 4502. As used in this chapter, “psychiatric technician” means
22 any person who, for compensation or personal profit, implements

1 procedures and techniques that involve understanding of cause
2 and effect and that are used in the care, treatment, and rehabilitation
3 of mentally ill or emotionally disturbed persons, or persons with
4 intellectual disabilities, and who has one or more of the following:

5 (a) Direct responsibility for administering or implementing
6 specific therapeutic procedures, techniques, treatments, or
7 medications with the aim of enabling recipients or patients to make
8 optimal use of their therapeutic regime, their social and personal
9 resources, and their residential care.

10 (b) Direct responsibility for the application of interpersonal and
11 technical skills in the observation and recognition of symptoms
12 and reactions of recipients or patients, for the accurate recording
13 of these symptoms and reactions, and for the carrying out of
14 treatments and medications as prescribed by a licensed physician
15 and surgeon or a psychiatrist.

16 The psychiatric technician in the performance of these procedures
17 and techniques is responsible to the director of the service in which
18 his or her duties are performed. The director may be a licensed
19 physician and surgeon, psychiatrist, psychologist, rehabilitation
20 therapist, social worker, registered nurse, or other professional
21 personnel.

22 Nothing herein shall authorize a licensed psychiatric technician
23 to practice medicine or surgery or to undertake the prevention,
24 treatment, or cure of disease, pain, injury, deformity, or mental or
25 physical condition in violation of the law.

26 SEC. 3. Section 17206.1 of the Business and Professions Code
27 is amended to read:

28 17206.1. (a) (1) In addition to any liability for a civil penalty
29 pursuant to Section 17206, ~~any~~ a person who violates this chapter,
30 and the act or acts of unfair competition are perpetrated against
31 one or more senior citizens or disabled persons, may be liable for
32 a civil penalty not to exceed two thousand five hundred dollars
33 (\$2,500) for each violation, which may be assessed and recovered
34 in a civil action as prescribed in Section 17206.

35 (2) Subject to subdivision (d), any civil penalty shall be paid as
36 prescribed by subdivisions (b) and (c) of Section 17206.

37 (b) As used in this section, the following terms have the
38 following meanings:

39 (1) "Senior citizen" means a person who is 65 years of age or
40 older.

(2) “Disabled person” means ~~any~~ a person who has a physical or mental impairment that substantially limits one or more major life activities.

(A) As used in this subdivision, “physical or mental impairment” means any of the following:

(i) ~~Any~~—A physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(ii) ~~Any~~—A mental or psychological disorder, including intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

“Physical or mental impairment” includes, but is not limited to, diseases and conditions including orthopedic, visual, speech, and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, and emotional illness.

(B) “Major life activities” means functions that include caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) In determining whether to impose a civil penalty pursuant to subdivision (a) and the amount thereof, the court shall consider, in addition to any other appropriate factors, the extent to which one or more of the following factors are present:

(1) Whether the defendant knew or should have known that his or her conduct was directed to one or more senior citizens or disabled persons.

(2) Whether the defendant’s conduct caused one or more senior citizens or disabled persons to suffer *any of the following*: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the senior citizen or disabled person.

(3) Whether one or more senior citizens or disabled persons are substantially more vulnerable than other members of the public to the defendant’s conduct because of age, poor health or infirmity,

1 impaired understanding, restricted mobility, or disability, and
2 actually suffered substantial physical, emotional, or economic
3 damage resulting from the defendant's conduct.

4 (d) ~~Any~~A court of competent jurisdiction hearing an action
5 pursuant to this section may make orders and judgments as ~~may~~
6 ~~be necessary to restore to any a senior citizen or disabled person~~
7 ~~any money or property, real or personal, which that~~ may have been
8 acquired by means of a violation of this chapter. Restitution ordered
9 pursuant to this subdivision shall be given priority over recovery
10 of ~~any a~~ civil penalty designated by the court as imposed pursuant
11 to subdivision (a), but shall not be given priority over ~~any a~~ civil
12 penalty imposed pursuant to subdivision (a) of Section 17206. If
13 the court determines that full restitution cannot be made to those
14 senior citizens or disabled persons, either at the time of judgment
15 or by a future date determined by the court, then restitution under
16 this subdivision shall be made on a pro rata basis depending on
17 the amount of loss.

18 SEC. 4. Section 1761 of the Civil Code is amended to read:

19 1761. As used in this title:

20 (a) "Goods" means tangible chattels bought or leased for use
21 primarily for personal, family, or household purposes, including
22 certificates or coupons exchangeable for these goods, and including
23 goods that, at the time of the sale or subsequently, are to be ~~be so~~
24 affixed to real property as to become a part of real property,
25 whether or not they are severable from the real property.

26 (b) "Services" means work, labor, and services for other than
27 a commercial or business use, including services furnished in
28 connection with the sale or repair of goods.

29 (c) "Person" means an individual, partnership, corporation,
30 limited liability company, association, or other group, however
31 organized.

32 (d) "Consumer" means an individual who seeks or acquires, by
33 purchase or lease, any goods or services for personal, family, or
34 household purposes.

35 (e) "Transaction" means an agreement between a consumer and
36 ~~any other another~~ person, whether or not the agreement is a
37 contract enforceable by action, and includes the making of, and
38 the performance pursuant to, that agreement.

39 (f) "Senior citizen" means a person who is 65 years of age or
40 older.

(g) “Disabled person” means ~~any~~ a person who has a physical or mental impairment that substantially limits one or more major life activities.

(1) As used in this subdivision, “physical or mental impairment” means any of the following:

(A) ~~Any~~—A physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(B) ~~Any~~—A mental or psychological disorder, including intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. “Physical or mental impairment” includes, but is not limited to, ~~such~~ diseases and conditions ~~as~~ including orthopedic, visual, speech, and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, ~~mental retardation~~ *intellectual disability*, and emotional illness.

(2) “Major life activities” means functions that include caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(h) “Home solicitation” means ~~any~~ a transaction made at the consumer’s primary residence, except those transactions initiated by the consumer. A consumer response to an advertisement is not a home solicitation.

SEC. 5. Section 8769 of the Education Code is amended to read:

8769. The county superintendent of schools may, with the approval of the county board of education, lease ~~any~~ real or personal property for the purpose of care, teaching, and training of physically handicapped children or children with intellectual disabilities ~~at such time as~~ *if* the property is not required for outdoor science education and conservation education, upon ~~such~~ *the* terms and conditions ~~as that~~ are agreed upon.

SEC. 6. Section 16191 of the Education Code is amended to read:

16191. As used in this article, “exceptional children” means physically handicapped pupils, pupils with intellectual disabilities, educationally handicapped pupils, multihandicapped pupils, or

1 pupils enrolled in development centers for the handicapped required
2 or allowed to be educated pursuant to Part 30 (commencing with
3 Section 56000).

4 SEC. 7. Section 16195 of the Education Code is amended to
5 read:

6 16195. Allocations under this article may be made in the
7 amount as may be necessary, and in the manner as to distribute
8 the available funds equitably among school districts, giving
9 consideration to the needs of each district and the number of
10 children within each district who are blind, partially seeing,
11 aphasic, deaf, hard of hearing, orthopedically impaired, or have
12 an intellectual disability, or who are health impaired,
13 multihandicapped, speech handicapped, educationally handicapped,
14 or enrolled in development centers for the handicapped.

15 In computing the number of those children, there shall be
16 included all of the following:

17 (a) The number of them residing in the district.

18 (b) The number of handicapped minors who are actually living
19 within the district five or more days a week, although their legal
20 residence may be outside the ~~district~~ *district*, and who are educated
21 pursuant to former Section 56708, as enacted by Section 2 of
22 Chapter 1010 of the Statutes of 1976.

23 (c) The number of them who reside outside of the district, except
24 those described in subdivision (b), and who are to be educated by
25 the district, excluding minors with intellectual disabilities within
26 former Section 56501, as amended by Section 58 of Chapter 1247
27 of the Statutes of 1977, who reside within a district having an
28 average daily attendance of 900 or more and ~~which~~ *that* does not
29 meet the requirements of Section 16058 concerning outstanding
30 bonded indebtedness.

31 Allocations for housing and equipment for minors having speech
32 defects or disorders shall be allowed in new schools constructed
33 after July 1, 1968, and in existing schools constructed between
34 July 1, 1933, and July 1, 1968. The housing and equipment shall
35 be designed and provided to permit their utilization for remedial
36 and other special services including speech therapy, speech reading
37 (lipreading), and auditory training for the speech and hearing
38 handicapped, screening and testing for speech and hearing defects,
39 or both, psychological testing of exceptional children, subject
40 matter tutoring of exceptional children, and other specialized

1 activities required by these children. In addition to the maximum
2 building area allowances provided in Sections 16047, 16052,
3 16053, and 16054, not more than an additional 200 square feet of
4 building area shall be allowed for each new school-~~so~~ planned and
5 constructed.

6 Each existing school, constructed between July 1, 1933, and July
7 1, 1968, shall be allowed not more than an additional 200 square
8 feet of building area only for construction thereon of a new speech
9 facility. At the option of the applicant district, the board may
10 allocate funds to convert existing facilities or to provide a
11 combination of new construction and conversion of existing
12 facilities to provide housing for minors having speech defects or
13 disorders, provided the cost of the conversion or combination of
14 new construction and conversion does not exceed the computed
15 cost for 200 square feet of new classroom construction based upon
16 cost standards adopted by the board. At the further option of the
17 applicant district, and in lieu of new building construction or
18 conversion, the board may allocate funds for the acquisition of
19 mobile speech therapy facilities, provided the cost of the mobile
20 facilities does not exceed the combined computed cost for 200
21 square feet of new classroom construction, based upon cost
22 standards adopted by the board, at all schools-~~which~~ *that* will be
23 served by the mobile facility.

24 SEC. 8. Section 16196 of the Education Code is amended to
25 read:

26 16196. Notwithstanding any provisions of this article to the
27 contrary, apportionments for the construction of facilities and the
28 purchase of essential furniture and equipment for the education of
29 exceptional children may, subject to the approval of the State
30 Department of Education, be made to-~~any a school-districts~~ *district*
31 not otherwise eligible to receive apportionments under Article 1
32 (commencing with Section 16000) and Article 2 (commencing
33 with Section 16150) of this chapter, for the education of blind,
34 partially seeing, aphasic, deaf, hard-of-hearing, orthopedically
35 impaired or other health-impaired, multihandicapped, and
36 educationally handicapped minors, minors with intellectual
37 disabilities, pupils having speech defects or disorders, or pupils
38 enrolled in development centers for the handicapped.

39 The State Department of Education may approve applications
40 ~~in those situations where~~ *if* the facilities will be used by a county

superintendent of schools required to educate physically handicapped minors pursuant to former Section 1850, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976, and minors with intellectual disabilities pursuant to former Section 1880, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976. A school district may educate these minors by agreement with a county superintendent of schools required to educate these minors. Priority in the use of the facilities shall be given to pupils from districts other than the applicant district.

Except as otherwise provided in this section, not more than 50 percent of the amount of ~~any~~ *an* apportionment made pursuant to this section shall be repaid. Repayments shall be made in the following manner: ~~Fifty~~ 50 percent of the amount of the apportionment shall be repaid in full with interest by the district, in the annual amounts and at the interest rate over the period as the State Allocation Board may determine, not to exceed 20 years from the date the apportionment became final. In ~~any~~ *a* school year in which 50 percent or more of the pupils in average daily attendance, as determined by the county superintendent of schools, and served by the facilities are not pupils from districts other than the applicant district, the repayment for the succeeding fiscal year shall be an amount ~~which~~ *that* would have been payable if the district had been required to repay 100 percent of the apportionment over that period.

The county board of supervisors of the county whose superintendent of schools conducts classes in the facility during any fiscal year shall at that time or times within the fiscal year that may be agreed upon between the county and the school district, but in any case not later than the end of the fiscal year, pay to the school district having the obligation to repay the apportionment made under this section for the construction of the facility, an amount equal to 80 percent of the amount the district is required to repay in the fiscal year with respect to the apportionment described above.

The county board of supervisors shall raise the amount required through a general tax levy on the property within the participating districts, or through a tuition charge not to exceed one hundred sixty dollars (\$160) a year per pupil by the county superintendent of schools to the school districts of residence of pupils attending

1 the facility other than the district having the obligation to repay,
2 or through a combination of these.

3 The county superintendent of schools shall notify the county
4 board of supervisors of his or her intention to approve a school
5 district's application for an allocation under this article before he
6 or she approves the application.

7 SEC. 9. Section 16200 of the Education Code is amended to
8 read:

9 16200. Notwithstanding any provisions of this article to the
10 contrary, the board may make apportionments to school districts
11 not otherwise eligible to receive apportionments under Article 1
12 (commencing with Section 16000) and Article 2 (commencing
13 with Section 16150) for the construction of special education
14 facilities and the purchase of essential furniture and equipment for
15 the purpose of either or both *of the following*: (1) educating those
16 physically handicapped and educationally handicapped pupils and
17 pupils with intellectual disabilities who regularly reside in an
18 established, licensed children's institution or family home and are
19 being educated pursuant to former Section 42902, as amended by
20 Section 1 of Chapter 1173 of the Statutes of 1977, and (2)
21 educating handicapped pupils in development centers for
22 handicapped pupils pursuant to former Article 1 (commencing
23 with Section 56800) of Chapter 6 of Part 30, as enacted by Section
24 2 of Chapter 1010 of the Statutes of 1976.

25 Only 50 percent of any amounts allocated and disbursed to a
26 district under this section shall be repaid by the district. Each
27 disbursement shall be repaid in 20 equal annual installments,
28 including interest as determined by the board, and shall be
29 computed and withheld by the Controller. The first computation
30 of repayment of any disbursement shall be made in the fiscal year
31 following the disbursement and shall during the next fiscal year
32 be deducted in equal amounts from the February, March, April,
33 and May installments of the apportionment made to the district
34 from the State School Fund under Sections 41330 to 41343,
35 inclusive, and Sections 41600 to 41972, inclusive.

36 SEC. 10. Section 41306 of the Education Code is amended to
37 read:

38 41306. The Superintendent of Public Instruction shall also
39 allow as otherwise provided in Section 41304 for the driver training
40 instruction necessary to be safely tested for a driver's license at

1 the Department of Motor Vehicles, those physically handicapped
2 pupils, pupils with intellectual disabilities who come within the
3 provisions of former Section 56501 as amended by Chapter 1247
4 of the Statutes of 1977, and educationally handicapped pupils who
5 are in attendance in a public secondary school in California that
6 offers qualified instruction, and who may qualify for a driver's
7 license, or other license, issued by the Department of Motor
8 Vehicles, a total allowance not to exceed two hundred ninety
9 dollars (\$290) including the reimbursement provisions set forth in
10 Section 41900 to each school district and county superintendent
11 of schools. All driver training for pupils herein described shall be
12 provided by qualified teachers, as defined by Sections 41906 and
13 41907. The provisions of this section may not be applied if
14 reimbursement allowable under Sections 41900 to 41912, inclusive,
15 is sufficient to meet the total cost of instruction as herein described.

16 It is the intent of the Legislature that driver training instruction
17 be provided *to* pupils as a part of the high school curriculum, and
18 the Legislature finds and declares that exceptional children are
19 entitled to the benefit of that instruction so far as their individual
20 capabilities permit, understanding that those pupils herein described
21 often require individualized and amplified driver training
22 instruction in order to succeed in becoming safe operators of motor
23 vehicles. Since without a means of self-transportation much of the
24 overall program of education and rehabilitation provided for by
25 the Legislature would be of little avail to the person without the
26 mobility required to become a productive and well-adjusted
27 member of society, the Legislature further declares that it is
28 incumbent upon the state to share in the cost of providing a most
29 needed and desirable program of driver training instruction for
30 these exceptional children.

31 SEC. 11. Section 41401 of the Education Code is amended to
32 read:

33 41401. For the purposes of this article:

34 (a) "Administrative employee" means an employee of a school
35 district, employed in a position requiring certification
36 qualifications, who does not come within the definition set forth
37 in subdivision (c) or (d).

38 (b) "Classified employee" means an employee of a school
39 district, employed in a position not requiring certification
40 qualifications.

(c) “Pupil services employee” means an employee of a school district, employed in a position requiring a standard designated services credential, health and development credential, or a librarian credential, who performs direct services to pupils. “Pupil services employee” includes, but is not limited to, in-school librarians, school nurses, assistant in-school librarians, audiovisual personnel, counselors, psychologists, psychometrists, guidance and welfare personnel, attendance personnel, school social workers, and all other certificated personnel performing pupil-personnel, health, or librarian services.

(d) “Teacher” means an employee of a school district, employed in a position requiring certification qualifications, whose duties require him or her to provide direct instruction to pupils in the schools of that district for the full time for which he or she is employed. “Teacher” includes, but is not limited to, teachers of special classes, teachers of exceptional children, teachers of pupils with physical disabilities, teachers of minors with intellectual disabilities, substitute teachers, instructional television teachers, specialist mathematics teachers, specialist reading teachers, home and hospital teachers, and learning disability group teachers. Instructional preparation time shall be counted as part of the teacher full-time equivalent, including, but not limited to, mentor teacher or department chairperson time.

SEC. 12. Section 51765 of the Education Code is amended to read:

51765. The governing board of ~~any~~ *a* school district that establishes and supervises a work experience education program in which pupils with intellectual disabilities are employed in part-time jobs may use funds derived from any source, to the extent permissible by appropriate law or regulation, to pay the wages of pupils ~~so~~ *who are* employed.

The Legislature hereby finds and declares that the authority granted by the provisions of this section is necessary to ensure that the work experience education program will continue to provide maximum educational benefit to students, particularly pupils with intellectual disabilities, and that the program is deemed to serve a public purpose.

SEC. 13. Section 854.2 of the Government Code is amended to read:

1 854.2. As used in this chapter, “mental institution” means ~~any~~
2 *a* state hospital for the care and treatment of the mentally disordered
3 or persons with intellectual disabilities, the California
4 Rehabilitation Center referred to in Section 3300 of the Welfare
5 and Institutions Code, or ~~any~~ *a* county psychiatric hospital.

6 SEC. 14. Section 6514 of the Government Code is amended
7 to read:

8 6514. A state department or agency concerned with the
9 provisions of services or facilities to persons with intellectual
10 disabilities and their families may enter into agreements under this
11 chapter.

12 SEC. 15. Section 12428 of the Government Code is amended
13 to read:

14 12428. In the event either the Governor or the Legislature
15 should obtain federal approval to transfer programs receiving
16 federal support for persons who have intellectual disabilities or
17 mental disorders from one state department to another state
18 department under the provisions of Public Law 90-577
19 (Intergovernmental Cooperation Act of 1968), the Controller shall,
20 upon approval of the Director of Finance, transfer to a department
21 designated by the Governor the parts of the appropriation of the
22 other departments that are related to programs for people who have
23 intellectual disabilities or mental disorders, provided further, that
24 the transfer shall enable the state to make maximum utilization of
25 available state and federal funds.

26 SEC. 16. Section 12926 of the Government Code is amended
27 to read:

28 12926. As used in this part in connection with unlawful
29 practices, unless a different meaning clearly appears from the
30 context:

31 (a) “Affirmative relief” or “prospective relief” includes the
32 authority to order reinstatement of an employee, awards of backpay,
33 reimbursement of out-of-pocket expenses, hiring, transfers,
34 reassignments, grants of tenure, promotions, cease and desist
35 orders, posting of notices, training of personnel, testing, expunging
36 of records, reporting of records, and any other similar relief that
37 is intended to correct unlawful practices under this part.

38 (b) “Age” refers to the chronological age of ~~any~~ *an* individual
39 who has reached his or her 40th birthday.

1 (c) “Employee” does not include ~~any~~ *an* individual employed
2 by his or her parents, spouse, or child, or ~~any~~ *an* individual
3 employed under a special license in a nonprofit sheltered workshop
4 or rehabilitation facility.

5 (d) “Employer” includes ~~any~~ *a* person regularly employing five
6 or more persons, or ~~any~~ *a* person acting as an agent of an employer,
7 directly or indirectly, the state or any political or civil subdivision
8 of the state, and cities, except as follows:

9 “Employer” does not include a religious association or
10 corporation not organized for private profit.

11 (e) “Employment agency” includes ~~any~~ *a* person undertaking
12 for compensation to procure employees or opportunities to work.

13 (f) “Essential functions” means the fundamental job duties of
14 the employment position the individual with a disability holds or
15 desires. “Essential functions” does not include the marginal
16 functions of the position.

17 (1) A job function may be considered essential for any of several
18 reasons, including, but not limited to, any one or more of the
19 following:

20 (A) The function may be essential because the reason the
21 position exists is to perform that function.

22 (B) The function may be essential because of the limited number
23 of employees available among whom the performance of that job
24 function can be distributed.

25 (C) The function may be highly specialized, so that the
26 incumbent in the position is hired for his or her expertise or ability
27 to perform the particular function.

28 (2) Evidence of whether a particular function is essential
29 includes, but is not limited to, the following:

30 (A) The employer’s judgment as to which functions are essential.

31 (B) Written job descriptions prepared before advertising or
32 interviewing applicants for the job.

33 (C) The amount of time spent on the job performing the function.

34 (D) The consequences of not requiring the incumbent to perform
35 the function.

36 (E) The terms of a collective bargaining agreement.

37 (F) The work experiences of past incumbents in the job.

38 (G) The current work experience of incumbents in similar jobs.

39 (g) (1) “Genetic information” means, with respect to ~~any~~
40 *an* individual, information about any of the following:

1 (A) The individual's genetic tests.

2 (B) The genetic tests of family members of the individual.

3 (C) The manifestation of a disease or disorder in family members
4 of the individual.

5 (2) "Genetic information" includes ~~any~~ a request for, or receipt
6 of, genetic services, or participation in clinical research that
7 includes genetic services, by an individual or ~~any~~ a family member
8 of the individual.

9 (3) "Genetic information" does not include information about
10 the sex or age of ~~any~~ an individual.

11 (h) "Labor organization" includes ~~any~~ an organization that exists
12 and is constituted for the purpose, in whole or in part, of collective
13 bargaining or of dealing with employers concerning grievances,
14 terms or conditions of employment, or of other mutual aid or
15 protection.

16 (i) "Medical condition" means either of the following:

17 (1) ~~Any~~ A health impairment related to or associated with a
18 diagnosis of cancer or a record or history of cancer.

19 (2) Genetic characteristics. For purposes of this section, "genetic
20 characteristics" means either of the following:

21 (A) ~~Any~~ A scientifically or medically identifiable gene or
22 chromosome, or combination or alteration thereof, that is known
23 to be a cause of a disease or disorder in a person or his or her
24 offspring, or that is determined to be associated with a statistically
25 increased risk of development of a disease or disorder, and that is
26 presently not associated with any symptoms of ~~any~~ a disease or
27 disorder.

28 (B) Inherited characteristics that may derive from the individual
29 or family member, that are known to be a cause of a disease or
30 disorder in a person or his or her offspring, or that are determined
31 to be associated with a statistically increased risk of development
32 of a disease or disorder, and that are presently not associated with
33 any symptoms of ~~any~~ a disease or disorder.

34 (j) "Mental disability" includes, but is not limited to, all of the
35 following:

36 (1) Having ~~any~~ a mental or psychological disorder or condition,
37 including intellectual disability, organic brain syndrome, emotional
38 or mental illness, or specific learning disabilities, that limits a
39 major life activity. For purposes of this section:

1 (A) “Limits” shall be determined without regard to mitigating
2 measures, ~~such as~~ *including* medications, assistive devices, or
3 reasonable accommodations, unless the mitigating measure itself
4 limits a major life activity.

5 (B) A mental or psychological disorder or condition limits a
6 major life activity if it makes the achievement of the major life
7 activity difficult.

8 (C) “Major life activities” shall be broadly construed and shall
9 include physical, mental, and social activities and working.

10 (2) Any other mental or psychological disorder or condition not
11 described in paragraph (1) that requires special education or related
12 services.

13 (3) Having a record or history of a mental or psychological
14 disorder or condition described in paragraph (1) or (2), which is
15 known to the employer or other entity covered by this part.

16 (4) Being regarded or treated by the employer or other entity
17 covered by this part as having, or having had, ~~any~~ a mental
18 condition that makes achievement of a major life activity difficult.

19 (5) Being regarded or treated by the employer or other entity
20 covered by this part as having, or having had, a mental or
21 psychological disorder or condition that has no present disabling
22 effect, but that may become a mental disability as described in
23 paragraph (1) or (2).

24 “Mental disability” does not include sexual behavior disorders,
25 compulsive gambling, kleptomania, pyromania, or psychoactive
26 substance use disorders resulting from the current unlawful use of
27 controlled substances or other drugs.

28 (k) “On the bases enumerated in this part” means or refers to
29 discrimination on the basis of one or more of the following: race,
30 religious creed, color, national origin, ancestry, physical disability,
31 mental disability, medical condition, genetic information, marital
32 status, sex, age, or sexual orientation.

33 (l) “Physical disability” includes, but is not limited to, all of the
34 following:

35 (1) Having ~~any~~ a physiological disease, disorder, condition,
36 cosmetic disfigurement, or anatomical loss that does both of the
37 following:

38 (A) Affects one or more of the following body systems:
39 neurological, immunological, musculoskeletal, special sense
40 organs, respiratory, including speech organs, cardiovascular,

1 reproductive, digestive, genitourinary, hemic and lymphatic, skin,
2 and endocrine.

3 (B) Limits a major life activity. For purposes of this section:

4 (i) “Limits” shall be determined without regard to mitigating
5 measures, including medications, assistive devices, prosthetics, or
6 reasonable accommodations, unless the mitigating measure itself
7 limits a major life activity.

8 (ii) A physiological disease, disorder, condition, cosmetic
9 disfigurement, or anatomical loss limits a major life activity if it
10 makes the achievement of the major life activity difficult.

11 (iii) “Major life activities” shall be broadly construed and
12 includes physical, mental, and social activities and working.

13 (2) Any other health impairment not described in paragraph (1)
14 that requires special education or related services.

15 (3) Having a record or history of a disease, disorder, condition,
16 cosmetic disfigurement, anatomical loss, or health impairment
17 described in paragraph (1) or (2), which is known to the employer
18 or other entity covered by this part.

19 (4) Being regarded or treated by the employer or other entity
20 covered by this part as having, or having had, ~~any~~ a physical
21 condition that makes achievement of a major life activity difficult.

22 (5) Being regarded or treated by the employer or other entity
23 covered by this part as having, or having had, a disease, disorder,
24 condition, cosmetic disfigurement, anatomical loss, or health
25 impairment that has no present disabling effect but may become
26 a physical disability as described in paragraph (1) or (2).

27 (6) “Physical disability” does not include sexual behavior
28 disorders, compulsive gambling, kleptomania, pyromania, or
29 psychoactive substance use disorders resulting from the current
30 unlawful use of controlled substances or other drugs.

31 (m) Notwithstanding subdivisions (j) and (l), if the definition
32 of “disability” used in the federal Americans with Disabilities Act
33 of 1990 (P.L. 101-336) would result in broader protection of the
34 civil rights of individuals with a mental disability or physical
35 disability, as defined in subdivision (j) or (l), or would include ~~any~~
36 a medical condition not included within those definitions, then
37 that broader protection or coverage shall be deemed incorporated
38 by reference into, and shall prevail over conflicting provisions of,
39 the definitions in subdivisions (j) and (l).

(n) “Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, or sexual orientation” includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(o) “Reasonable accommodation” may include either of the following:

(1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

(2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training ~~materials~~ *materials*, or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(p) “Religious creed,” “religion,” “religious observance,” “religious belief,” and “creed” include all aspects of religious belief, observance, and practice.

(q) “Sex” includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. “Sex” also includes, but is not limited to, a person’s gender. “Gender” means sex, and includes a person’s gender identity and gender expression. “Gender expression” means a person’s gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth.

(r) “Sexual orientation” means heterosexuality, homosexuality, and bisexuality.

(s) “Supervisor” means ~~any~~ *an* individual having the authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(t) “Undue hardship” means an action requiring significant difficulty or expense, when considered in light of the following factors:

(1) The nature and cost of the accommodation needed.

1 (2) The overall financial resources of the facilities involved in
2 the provision of the reasonable accommodations, the number of
3 persons employed at the facility, and the effect on expenses and
4 resources or the impact otherwise of these accommodations upon
5 the operation of the facility.

6 (3) The overall financial resources of the covered entity, the
7 overall size of the business of a covered entity with respect to the
8 number of employees, and the number, type, and location of its
9 facilities.

10 (4) The type of operations, including the composition, structure,
11 and functions of the workforce of the entity.

12 (5) The geographic separateness, administrative, or fiscal
13 relationship of the facility or facilities.

14 SEC. 17. Section 14670.1 of the Government Code is amended
15 to read:

16 14670.1. Notwithstanding Section 14670, the Director of
17 General Services, with the consent of the State Department of
18 Mental Health, may let to a nonprofit corporation, for the purpose
19 of conducting an educational and work program for persons with
20 intellectual disabilities, and for a period not to exceed 50 years,
21 real property not exceeding 10 acres located within the grounds
22 of the Napa State Hospital.

23 The lease authorized by this section shall be nonassignable and
24 shall be subject to periodic review every five years. The review
25 shall be made by the Director of General Services, who shall do
26 both of the following:

27 (a) Assure the state that the original purposes of the lease are
28 being carried out.

29 (b) Determine what, if any, adjustment should be made in the
30 terms of the lease.

31 The lease shall also provide for an initial capital outlay by the
32 lessee of thirty thousand dollars (\$30,000) prior to January 1, 1976.
33 The capital outlay may be, or may have been, contributed before
34 or after the effective date of the act adding this section.

35 SEC. 18. Section 14670.2 of the Government Code, as amended
36 by Section 1 of Chapter 65 of the Statutes of 1992, is amended to
37 read:

38 14670.2. Notwithstanding Section 14670, the Director of
39 General Services, with the consent of the State Department of
40 Mental Health, may, in the best interests of the state, let to a public

1 governmental agency, for the purpose of locating and conducting
2 its training program for people with intellectual disabilities, and
3 for locating and conducting a child-care facility, and for a period
4 not to exceed 50 years, real property not exceeding 10 acres located
5 within the grounds of the Napa State Hospital. For the additional
6 purpose of establishing an educational park, the director may, with
7 the consent of the department, renegotiate the lease, for a period
8 not to exceed 50 years, which period shall commence January 1,
9 1993. For the purposes of this section, “educational park” means
10 a conglomerate of educational services, including, but not limited
11 to, a children’s center, a preschool for severely disabled children,
12 adult educational services, administrative offices, a community
13 school, and a media services building.

14 The lease authorized by this section shall be nonassignable and
15 shall be subject to periodic review every five years. That review
16 shall be made by the Director of General Services, who shall do
17 both of the following:

18 (a) Assure the state the purposes of the lease are being carried
19 out.

20 (b) Determine what, if any, adjustment should be made in the
21 terms of the lease.

22 The lease shall also provide for the establishment of a school
23 building facility by the lessee prior to July 1, 1977. That facility
24 shall not be established until after the effective date of the act
25 amending this section.

26 SEC. 19. Section 14670.3 of the Government Code is amended
27 to read:

28 14670.3. Notwithstanding Section 14670, the Director of
29 General Services, with the consent of the State Department of
30 Mental Health, may let to a nonprofit corporation, for the purpose
31 of conducting an educational and work program for persons with
32 intellectual disabilities, and for a period not to exceed 55 years,
33 real property not exceeding five acres located within the grounds
34 of the Fairview State Hospital.

35 The lease authorized by this section shall be nonassignable and
36 shall be subject to periodic review every five years. The review
37 shall be made by the Director of General Services, who shall do
38 both of the following:

39 (a) Assure the state that the original purposes of the lease are
40 being carried out.

1 (b) Determine what, if any, adjustment should be made in the
2 terms of the lease.

3 The lease shall also provide for an initial capital outlay by the
4 lessee of thirty thousand dollars (\$30,000) prior to January 1, 1976.
5 ~~Such~~The capital outlay may be, or may have been, contributed
6 before or after the effective date of the act adding this section.

7 SEC. 20. Section 14670.5 of the Government Code is amended
8 to read:

9 14670.5. Notwithstanding Section 14670, the Director of
10 General Services, with the consent of the State Department of
11 Mental Health may let to a nonprofit corporation, for the purpose
12 of establishing and maintaining a rehabilitation center for persons
13 with intellectual disabilities, for a period not exceeding 20 years,
14 real property, not exceeding five acres, located within the grounds
15 of the Fairview State Hospital in Orange County, and that is
16 retained by the state primarily to provide a peripheral buffer area,
17 or zone, between real property ~~upon which is located~~ that the state
18 hospital *is located on* and adjacent real property, if the director
19 deems the letting is in the best interests of the state.

20 SEC. 21. Section 14672.1 of the Government Code is amended
21 to read:

22 14672.1. Notwithstanding Section 14670, the Director of
23 General Services, with the consent of the Department of
24 Corrections and Rehabilitation, may let to a nonprofit corporation,
25 for the purpose of conducting an educational and work program
26 for persons with intellectual disabilities, and for a period not to
27 exceed 50 years, real property not exceeding 10 acres, located
28 within the grounds of the Medical Facility at Vacaville, California.

29 ~~Any~~A lease executed pursuant to this section shall include a
30 provision that the lease shall be canceled if permanent facilities
31 are not constructed on the leased land within five years after the
32 effective date of the amendments to this section enacted at the
33 1967 Regular Session of the Legislature.

34 ~~Any~~A lease executed pursuant to this section may be assigned
35 or sublet in whole or in part by the lessee nonprofit corporation to
36 any public agency with the approval of the Director of General
37 Services and the Department of Corrections and Rehabilitation.

38 SEC. 22. Section 14672.92 of the Government Code is amended
39 to read:

1 14672.92. Notwithstanding Section 14670, the Director of
2 General Services, with the consent of the State Department of
3 Developmental Services, may let to a nonprofit corporation, for
4 the purpose of conducting an educational and work program for
5 persons with intellectual disabilities, and for a period not to exceed
6 50 years, real property not exceeding 18.50 acres located within
7 the grounds of the Camarillo State Hospital at 1732 Lewis Road
8 in the City of Camarillo.

9 The lease authorized by this section shall be nonassignable and
10 shall be subject to periodic review every five years. The review
11 shall be made by the Director of General Services and the Director
12 of Developmental Services who shall do all of the following:

13 (a) Assure the state the original purposes of the lease are being
14 carried out.

15 (b) Determine what, if any, adjustment should be made in the
16 terms of the lease.

17 SEC. 23. Section 16813 of the Government Code is amended
18 to read:

19 16813. Bonds of the State of California shall be prepared,
20 issued, and sold in the amount of one hundred million dollars
21 (\$100,000,000), in such denominations, to be numbered, to bear
22 such dates, and to bear such rate of interest as shall be determined
23 by the Legislature.

24 The proceeds of such bonds shall be used:

25 (a) Subject to such legislation as the Legislature may, from time
26 to time, enact, to provide loans and grants to school districts of the
27 state for use in purchasing and improving schoolsites, the
28 purchasing of furniture and equipment for schools, and the planning
29 and constructing, reconstructing, repairing, altering, and making
30 additions to, school buildings.

31 (b) Subject to such legislation as the Legislature may, from time
32 to time, enact, to provide loans and grants to school districts for
33 assistance in providing necessary housing and equipment for the
34 education of individuals who have exceptional needs, as that term
35 is defined in Section 56026 of the Education Code.

36 (c) To pay the expenses that may be incurred in preparing,
37 advertising, issuing, and selling the bonds, and in administering
38 and directing the expenditure of the moneys realized from the sale
39 of such bonds.

1 The issuance, signing, countersigning, endorsing, and selling of
2 the bonds herein provided for, and the interest coupons thereon,
3 the place and method of payment of principal and interest thereon,
4 the procedure for initiating, advertising and holding sales thereof,
5 and the performance by the several state boards and state officers
6 of their respective duties in connection therewith; and all other
7 provisions, terms, and conditions relating to the bonds, shall be as
8 provided by the Legislature.

9 The Legislature may appropriate money to be expended in
10 addition to or in lieu of the money received from the sale of the
11 bonds sold under the authority of this section. The money so
12 appropriated shall be expended pursuant to subdivision (a) of this
13 section. If the Legislature appropriates money in lieu of the money
14 received from the sale of the bonds, the total amount of bonds
15 required to be sold pursuant to this section shall be reduced by the
16 amount so appropriated.

17 The Legislature shall pass all laws, general or special, necessary
18 or convenient to carry into effect the provisions of this section.
19 Such laws may provide for the allocation of funds to school
20 districts pursuant to this section by the State Allocation Board or
21 a similar agency and in that event, notwithstanding any other
22 provision of this Constitution, Members of the Legislature who
23 are required to meet with such board shall have equal rights and
24 duties with the nonlegislative members to vote and act upon matters
25 pending before such board.

26 The Legislature shall require each district receiving an allocation
27 of money from the sale of bonds pursuant to this section for the
28 purposes prescribed in subdivision (a) of this section to repay such
29 money to the state on such terms and in such amounts as may be
30 within the ability of the district to repay.

31 The Legislature may require each district receiving an allocation
32 of money from the sale of bonds pursuant to this section for the
33 purposes prescribed in subdivision (b) of this section to repay such
34 money to the state on such terms and in such amounts as the
35 Legislature deems proper.

36 The people of the State of California in adopting this section
37 hereby declare that it is in the interests of the state and of the people
38 thereof for the state to aid school districts of the state in providing
39 necessary schoolsites and buildings for the pupils of the public
40 school system, such system being a matter of general concern

1 inasmuch as the education of the children of the state is an
2 obligation and function of the state.

3 SEC. 24. Section 16814 of the Government Code is amended
4 to read:

5 16814. Bonds of the State of California shall be prepared,
6 issued, and sold in the amount of two hundred twenty million
7 dollars (\$220,000,000), in such denominations, to be numbered,
8 to bear such dates, and to bear such rate of interest as shall be
9 determined by the Legislature.

10 The proceeds of such bonds shall be used:

11 (a) Subject to such legislation as the Legislature may, from time
12 to time, enact, to provide loans and grants to school districts of the
13 state for use in purchasing and improving schoolsites, the
14 purchasing of furniture and equipment for schools, and the planning
15 and constructing, reconstructing, repairing, altering, and making
16 additions to, school buildings.

17 (b) Subject to such legislation as the Legislature may, from time
18 to time, enact, to provide loans and grants to school districts for
19 assistance in providing necessary housing and equipment for the
20 education of individuals who have exceptional needs, as that term
21 is defined in Section 56026 of the Education Code.

22 (c) To pay the expenses that may be incurred in preparing,
23 advertising, issuing, and selling the bonds, and in administering
24 and directing the expenditure of the moneys realized from the sale
25 of such bonds.

26 (d) To repay, as provided by law, any money appropriated from
27 the Investment Fund at the 1958 First Extraordinary Session for
28 state school building aid.

29 The issuance, signing, countersigning, endorsing, and selling of
30 the bonds herein provided for, and the interest coupons thereon,
31 the place and method of payment of principal and interest thereon,
32 the procedure for initiating, advertising and holding sales thereof,
33 and the performance by the several state boards and state officers
34 of their respective duties in connection therewith; and all other
35 provisions, terms, and conditions relating to the bonds, shall be as
36 provided by the Legislature.

37 The Legislature may appropriate money to be expended in
38 addition to or in lieu of the money received from the sale of the
39 bonds sold under the authority of this section. The money so
40 appropriated shall be expended pursuant to subdivision (a) of this

1 section. If the Legislature appropriates money in lieu of the money
2 received from the sale of the bonds, the total amount of bonds
3 required to be sold pursuant to this section shall be reduced by the
4 amount so appropriated.

5 The Legislature shall pass all laws, general or special, necessary
6 or convenient to carry into effect the provisions of this section.
7 Such laws may provide for the allocation of funds to school
8 districts pursuant to this section by the State Allocation Board or
9 a similar agency and in that event, notwithstanding any other
10 provision of this Constitution, Members of the Legislature who
11 are required to meet with such board shall have equal rights and
12 duties with the nonlegislative members to vote and act upon matters
13 pending before such board.

14 The Legislature shall require each district receiving an allocation
15 of money from the sale of bonds pursuant to this section for the
16 purposes prescribed in subdivision (a) of this section to repay such
17 money to the state on such terms and in such amounts as may be
18 within the ability of the district to repay.

19 The Legislature may require each district receiving an allocation
20 of money from the sale of bonds pursuant to this section for the
21 purposes prescribed in subdivision (b) of this section to repay such
22 money to the state on such terms and in such amounts as the
23 Legislature deems proper.

24 The people of the State of California in adopting this section
25 hereby declare that it is in the interests of the state and of the people
26 thereof for the state to aid school districts of the state in providing
27 necessary schoolsites and buildings for the pupils of the public
28 school system, such system being a matter of general concern
29 inasmuch as the education of the children of the state is an
30 obligation and function of the state.

31 SEC. 25. Section 16816 of the Government Code is amended
32 to read:

33 16816. Bonds of the State of California shall be prepared,
34 issued, and sold in the amount of three hundred million dollars
35 (\$300,000,000), in such denominations, to be numbered, to bear
36 such dates, and to bear such rate of interest as shall be determined
37 by the Legislature.

38 The proceeds of such bonds shall be used:

39 (a) Subject to such legislation as the Legislature may, from time
40 to time, enact, to provide loans and grants to school districts of the

1 state for use in purchasing and improving schoolsites, the
2 purchasing of furniture and equipment for schools, and the planning
3 and constructing, reconstructing, repairing, altering, and making
4 additions to, school buildings.

5 (b) Subject to such legislation as the Legislature may, from time
6 to time, enact, to provide loans and grants to school districts for
7 assistance in providing necessary housing and equipment for the
8 education of individuals who have exceptional needs, as that term
9 is defined in Section 56026 the Education Code.

10 (c) To pay the expenses that may be incurred in preparing,
11 advertising, issuing, and selling the bonds, and in administering
12 and directing the expenditure of the moneys realized from the sale
13 of such bonds.

14 (d) To repay, as provided by law, any money appropriated from
15 the General Fund at the 1960 First Extraordinary Session for state
16 school building aid.

17 The issuance, signing, countersigning, endorsing, and selling of
18 the bonds herein provided for, and the interest coupons thereon,
19 the place and method of payment of principal and interest thereon,
20 the procedure for initiating, advertising and holding sales thereof,
21 and the performance by the several state boards and state officers
22 of their respective duties in connection therewith; and all other
23 provisions, terms, and conditions relating to the bonds, shall be as
24 provided by the Legislature.

25 The Legislature may appropriate money to be expended in
26 addition to or in lieu of the money received from the sale of the
27 bonds sold under the authority of this section. The money so
28 appropriated shall be expended pursuant to subdivision (a) of this
29 section. If the Legislature appropriates money in lieu of the money
30 received from the sale of the bonds, the total amount of bonds
31 required to be sold pursuant to this section shall be reduced by the
32 amount so appropriated.

33 The Legislature shall pass all laws, general or special, necessary
34 or convenient to carry into effect the provisions of this section.
35 Such laws may provide for the allocation of funds to school
36 districts pursuant to this section by the State Allocation Board or
37 a similar agency. Notwithstanding any other provision of this
38 Constitution, Members of the Legislature who are required to meet
39 with such board shall have equal rights and duties with the
40 nonlegislative members to vote and act upon matters pending

1 before such board concerning this section or any other section of
2 the Constitution or legislative act authorizing the allocation of
3 funds to school districts for purposes the same or substantially the
4 same as those enumerated in this section.

5 The Legislature shall require each district receiving an allocation
6 of money from the sale of bonds pursuant to this section for the
7 purposes prescribed in subdivision (a) of this section to repay such
8 money to the state on such terms and in such amounts as may be
9 within the ability of the district to repay.

10 The Legislature may require each district receiving an allocation
11 of money from the sale of bonds pursuant to this section for the
12 purposes prescribed in subdivision (b) of this section to repay such
13 money to the state on such terms and in such amounts as the
14 Legislature deems proper.

15 The people of the State of California in adopting this section
16 hereby declare that it is in the interests of the state and of the people
17 thereof for the state to aid school districts of the state in providing
18 necessary schoolsites and buildings for the pupils of the public
19 school system, such system being a matter of general concern
20 inasmuch as the education of the children of the state is an
21 obligation and function of the state.

22 SEC. 26. Section 1275.5 of the Health and Safety Code is
23 amended to read:

24 1275.5. (a) The regulations relating to the licensing of
25 hospitals, previously adopted by the State Department of Public
26 Health pursuant to Chapter 2 (commencing with Section 1250) of
27 Division 2, and in effect immediately prior to July 1, 1973, shall
28 remain in effect and shall be fully enforceable with respect to ~~any~~
29 ~~a~~ hospital required to be licensed by this chapter, ~~unless and until~~
30 the regulations are readopted, amended, or repealed by the director.

31 (b) The regulations relating to private institutions receiving or
32 caring for any mentally disordered persons, persons with
33 intellectual disabilities, and other incompetent persons, previously
34 adopted by the former Department of Mental Hygiene pursuant to
35 Chapter 1 (commencing with Section 7000) of Division 7 of the
36 Welfare and Institutions Code, and in effect immediately prior to
37 July 1, 1973, shall remain in effect and shall be fully enforceable
38 with respect to ~~any~~ a facility, establishment, or institution for the
39 reception and care of mentally disordered persons, persons with
40 intellectual disabilities, and other incompetent persons, required

1 to be licensed by the provisions of this chapter ~~unless and~~ until
2 ~~said~~ *the* regulations are readopted, amended, or repealed by the
3 director.

4 (c) All regulations relating to the licensing of psychiatric health
5 facilities previously adopted by the State Department of Health
6 Services, pursuant to authority now vested in the State Department
7 of Mental Health by Section 4080 of the Welfare and Institutions
8 Code, and in effect immediately preceding September 20, 1988,
9 shall remain in effect and shall be fully enforceable by the State
10 Department of Mental Health with respect to ~~any a~~ facility or
11 program required to be licensed as a psychiatric health facility,
12 ~~unless and~~ until *the regulations are* readopted, amended, or
13 repealed by the Director of Mental Health.

14 SEC. 27. Section 1337.1 of the Health and Safety Code is
15 amended to read:

16 1337.1. A skilled nursing or intermediate care facility shall
17 adopt an approved training program that meets standards
18 established by the state department. The approved training program
19 shall consist of at least the following:

20 (a) An orientation program to be given to newly employed nurse
21 assistants prior to providing direct patient care in skilled nursing
22 or intermediate care facilities.

23 (b) (1) A precertification training program consisting of at least
24 60 classroom hours of training on basic nursing skills, patient
25 safety and rights, the social and psychological problems of patients,
26 and resident abuse prevention, recognition, and reporting pursuant
27 to subdivision (e). The 60 classroom hours of training may be
28 conducted within a skilled nursing or intermediate care facility or
29 in an educational institution.

30 (2) In addition to the 60 classroom hours of training required
31 under paragraph (1), the precertification training program shall
32 consist of at least 100 hours of supervised and on-the-job training
33 clinical practice. The 100 hours may consist of normal employment
34 as a nurse assistant under the supervision of either the director of
35 nurse training or a licensed nurse qualified to provide nurse
36 assistant training who has no other assigned duties while providing
37 the training.

38 (3) At least two hours of the 60 hours of classroom training and
39 at least four hours of the 100 hours of the supervised clinical
40 training shall address the special needs of persons with

1 developmental and mental disorders, including intellectual
2 disability, Alzheimer's disease, cerebral palsy, epilepsy, dementia,
3 Parkinson's disease, and mental illness.

4 (4) In a precertification training program subject to this
5 subdivision, credit shall be given for the training received in an
6 approved precertification training program adopted by another
7 skilled nursing or intermediate care facility.

8 (5) This subdivision shall not apply to a skilled nursing or
9 intermediate care facility that demonstrates to the state department
10 that it employs only nurse assistants with a valid certification.

11 (c) Continuing in-service training to assure continuing
12 competency in existing and new nursing skills.

13 (d) Each facility shall consider including training regarding the
14 characteristics and method of assessment and treatment of acquired
15 ~~immune deficiency~~ *immunodeficiency* syndrome (AIDS).

16 (e) (1) The approved training program shall include, within the
17 60 hours of classroom training, a minimum of six hours of
18 instruction on preventing, recognizing, and reporting instances of
19 resident abuse utilizing those courses developed pursuant to Section
20 13823.93 of the Penal Code, and a minimum of one hour of
21 instruction on preventing, recognizing, and reporting residents'
22 rights violations.

23 (2) A minimum of four hours of instruction on preventing,
24 recognizing, and reporting instances of resident abuse, including
25 instruction on preventing, recognizing, and reporting residents'
26 rights violations, shall be included within the total minimum hours
27 of continuing education or in-service training required and in effect
28 for certified nursing assistants.

29 SEC. 28. Section 1337.3 of the Health and Safety Code is
30 amended to read:

31 1337.3. (a) The department shall prepare and maintain a list
32 of approved training programs for nurse assistant certification.
33 The list shall include training programs conducted by skilled
34 nursing or intermediate care facilities, as well as local agencies
35 and education programs. In addition, the list shall include
36 information on whether a training center is currently training nurse
37 assistants, their competency test pass rates, and the number of
38 nurse assistants they have trained. Clinical portions of the training
39 programs may be obtained as on-the-job training, supervised by a
40 qualified director of staff development or licensed nurse.

1 (b) It shall be the duty of the department to inspect a
2 representative sample of training programs. The department shall
3 protect consumers and students in any training program against
4 fraud, misrepresentation, or other practices that may result in
5 improper or excessive payment of funds paid for training programs.
6 In evaluating a training center's training program, the department
7 shall examine each training center's trainees' competency test
8 passage rate, and require each program to maintain an average 60
9 percent test score passage rate to maintain its participation in the
10 program. The average test score passage rate shall be calculated
11 over a two-year period. If the department determines that ~~any~~ *a*
12 training program is not complying with regulations or is not
13 meeting the competency passage rate requirements, notice thereof
14 in writing shall be immediately given to the program. If the
15 program has not been brought into compliance within a reasonable
16 time, the program may be removed from the approved list and
17 notice thereof in writing given to it. Programs removed under this
18 article shall be afforded an opportunity to request reinstatement
19 of program approval at any time. The department's district offices
20 shall inspect facility-based centers as part of their annual survey.

21 (c) Notwithstanding Section 1337.1, the approved training
22 program shall consist of at least the following:

23 (1) A 16-hour orientation program to be given to newly
24 employed nurse assistants prior to providing direct patient care,
25 and consistent with federal training requirements for facilities
26 participating in the Medicare or Medicaid Programs.

27 (2) (A) A certification training program consisting of at least
28 60 classroom hours of training on basic nursing skills, patient
29 safety and rights, the social and psychological problems of patients,
30 and elder abuse recognition and reporting pursuant to subdivision
31 (e) of Section 1337.1. The 60 classroom hours of training may be
32 conducted within a skilled nursing facility, an intermediate care
33 facility, or an educational institution.

34 (B) In addition to the 60 classroom hours of training required
35 under subparagraph (A), the certification program shall also consist
36 of 100 hours of supervised and on-the-job training clinical practice.
37 The 100 hours may consist of normal employment as a nurse
38 assistant under the supervision of either the director of staff
39 development or a licensed nurse qualified to provide nurse assistant

1 training who has no other assigned duties while providing the
2 training.

3 (3) At least two hours of the 60 hours of classroom training and
4 at least four hours of the 100 hours of the supervised clinical
5 training shall address the special needs of persons with
6 developmental and mental disorders, including intellectual
7 disability, Alzheimer's disease, cerebral palsy, epilepsy, dementia,
8 Parkinson's disease, and mental illness.

9 (d) The department, in consultation with the State Department
10 of Education and other appropriate organizations, shall develop
11 criteria for approving training programs, that includes program
12 content for orientation, training, inservice and the examination for
13 testing knowledge and skills related to basic patient care services
14 and shall develop a plan that identifies and encourages career
15 ladder opportunities for certified nurse assistants. This group shall
16 also recommend, and the department shall adopt, regulation
17 changes necessary to provide for patient care when facilities utilize
18 noncertified nurse assistants who are performing direct patient
19 care. The requirements of this subdivision shall be established by
20 January 1, 1989.

21 (e) On or before January 1, 2004, the department, in consultation
22 with the State Department of Education, the American Red Cross,
23 and other appropriate organizations, shall do the following:

24 (1) Review the current examination for approved training
25 programs for certified nurse assistants to ensure the accurate
26 assessment of whether a nurse assistant has obtained the required
27 knowledge and skills related to basic patient care services.

28 (2) Develop a plan that identifies and encourages career ladder
29 opportunities for certified nurse assistants, including the application
30 of on-the-job post-certification hours to educational credits.

31 (f) A skilled nursing or intermediate care facility shall determine
32 the number of specific clinical hours within each module identified
33 by the state department required to meet the requirements of
34 subdivision (d), subject to subdivisions (b) and (c). The facility
35 shall consider the specific hours recommended by the state
36 department when adopting the certification training program
37 required by this chapter.

38 (g) This article shall not apply to a program conducted by any
39 church or denomination for the purpose of training the adherents

1 of the church or denomination in the care of the sick in accordance
2 with its religious tenets.

3 (h) The Chancellor of the California Community Colleges shall
4 provide to the state department a standard process for approval of
5 college credit. The state department shall make this information
6 available to all training programs in the state.

7 SEC. 29. Section 13113 of the Health and Safety Code is
8 amended to read:

9 13113. (a) Except as otherwise provided in this section, ~~no~~ a
10 person, firm, or corporation shall *not* establish, maintain, or operate
11 ~~any~~ a hospital, children's home, children's nursery, or institution,
12 home or institution for the care of aged or senile persons,
13 sanitarium or institution for insane *persons* or persons with
14 intellectual disabilities, or nursing or convalescent home, wherein
15 more than six guests or patients are housed or cared for on a
16 24-hour-per-day basis unless there is installed and maintained in
17 an operable condition in every building, or portion thereof where
18 patients or guests are housed, an automatic sprinkler system
19 approved by the State Fire Marshal.

20 (b) This section does not apply to homes or institutions for the
21 24-hour-per-day care of ambulatory children if all of the following
22 conditions are satisfied:

23 (1) The buildings, or portions thereof ~~in which~~ *where* children
24 are housed, are not more than two stories in height and are
25 constructed and maintained in accordance with regulations adopted
26 by the State Fire Marshal pursuant to Section 13143 and building
27 standards published in the California Building Standards Code.

28 (2) The buildings, or portions thereof housing more than six
29 children, shall have installed and maintained in an operable
30 condition therein a fire alarm system of a type approved by the
31 State Fire Marshal. The system shall be activated by detectors
32 responding to invisible products of combustion other than heat.

33 (3) The buildings or portions thereof do not house mentally ill
34 children or children with intellectual disabilities.

35 (c) This section does not apply to any one-story building or
36 structure of an institution or home for the care of the aged providing
37 24-hour-per-day care if the building or structure is used or intended
38 to be used for the housing of no more than six ambulatory aged
39 persons. However, the buildings or institutions shall have installed
40 and maintained in an operable condition therein a fire alarm system

1 of a type approved by the State Fire Marshal. The system shall be
2 activated by detectors responding to products of combustion other
3 than heat.

4 (d) This section does not apply to occupancies, or any alterations
5 thereto, located in type I construction, as defined by the State Fire
6 Marshal, under construction or in existence on March 4, 1972.

7 (e) “Under construction,” as used in this section, means that
8 actual work shall have been performed on the construction site
9 and shall not be construed to mean that the hospital, home, nursery,
10 institution, sanitarium, or ~~any~~ a portion thereof, is in the planning
11 stage.

12 SEC. 30. Section 51312 of the Health and Safety Code is
13 amended to read:

14 51312. (a) The primary purpose of this chapter is to provide
15 an additional method of financing special needs housing.

16 (b) (1) For purposes of this chapter, “special needs housing”
17 means any housing, including supportive housing, intended to
18 benefit, in whole or in part, persons identified as having special
19 needs relating to any of the following:

20 (A) Mental health.

21 (B) Physical disabilities.

22 (C) Developmental disabilities, including, but not limited to,
23 intellectual disability, cerebral palsy, epilepsy, and autism.

24 (D) The risk of homelessness.

25 (2) Special needs housing shall also mean housing intended to
26 meet the housing needs of persons eligible for mental health
27 services funded in whole or in part by the Mental Health Services
28 Fund, created by Section 5890 of the Welfare and Institutions
29 Code.

30 SEC. 31. Section 110403 of the Health and Safety Code is
31 amended to read:

32 110403. Except as otherwise provided in Section 110405, it is
33 unlawful for ~~any~~ a person to advertise ~~any~~ a drug or device
34 represented to have ~~any~~ an effect in any of the following
35 conditions, disorders, or diseases:

36 (a) Appendicitis.

37 (b) Blood disorders.

38 (c) Bone or joint diseases.

39 (d) Kidney diseases or disorders.

40 (e) Cancer.

- 1 (f) Carbuncles.
- 2 (g) Diseases, disorders, or conditions of the eye.
- 3 (h) Diabetes.
- 4 (i) Diphtheria.
- 5 (j) Gallbladder diseases or disorders.
- 6 (k) Heart and vascular diseases.
- 7 (l) High blood pressure.
- 8 (m) Diseases or disorders of the ear or auditory apparatus,
- 9 including hearing loss and deafness.
- 10 (n) Measles.
- 11 (o) Meningitis.
- 12 (p) Mental disease or intellectual disability.
- 13 (q) Paralysis.
- 14 (r) Pneumonia.
- 15 (s) Poliomyelitis.
- 16 (t) Prostate gland disorders.
- 17 (u) Conditions of the scalp, affecting hair loss, or baldness.
- 18 (v) Alcoholism.
- 19 (w) Periodontal diseases.
- 20 (x) Epilepsy.
- 21 (y) Goiter.
- 22 (z) Endocrine disorders.
- 23 (aa) Sexual impotence.
- 24 (ab) Sinus infections.
- 25 (ac) Encephalitis.
- 26 (ad) Tumors.
- 27 (ae) Venereal diseases.
- 28 (af) Tuberculosis.
- 29 (ag) Ulcers of the stomach.
- 30 (ah) Varicose ulcers.
- 31 (ai) Scarlet fever.
- 32 (aj) Typhoid fever.
- 33 (ak) Whooping cough.
- 34 (al) Acquired ~~immune deficiency~~ *immunodeficiency* syndrome
- 35 (AIDS).
- 36 (am) AIDS-related complex (ARC).
- 37 (an) Diseases, disorders, or conditions of the immune system.
- 38 SEC. 32. Section 123935 of the Health and Safety Code is
- 39 amended to read:

1 123935. A handicapped child shall not be denied services
2 pursuant to this article because he or she has an intellectual
3 disability.

4 SEC. 33. Section 125000 of the Health and Safety Code is
5 amended to read:

6 125000. (a) It is the policy of the State of California to make
7 every effort to detect, as early as possible, phenylketonuria and
8 other preventable heritable or congenital disorders leading to
9 intellectual disability or physical defects.

10 The department shall establish a genetic disease unit, that shall
11 coordinate all programs of the department in the area of genetic
12 disease. The unit shall promote a statewide program of information,
13 testing, and counseling services and shall have the responsibility
14 of designating tests and regulations to be used in executing this
15 program.

16 The information, tests, and counseling for children shall be in
17 accordance with accepted medical practices and shall be
18 administered to each child born in California once the department
19 has established appropriate regulations and testing methods. The
20 information, tests, and counseling for pregnant women shall be in
21 accordance with accepted medical practices and shall be offered
22 to each pregnant woman in California once the department has
23 established appropriate regulations and testing methods. These
24 regulations shall follow the standards and principles specified in
25 Section 124980. The department may provide laboratory testing
26 facilities or contract with any laboratory that it deems qualified to
27 conduct tests required under this section. However, notwithstanding
28 former Section 125005, provision of laboratory testing facilities
29 by the department shall be contingent upon the provision of funding
30 therefor by specific appropriation to the Genetic Disease Testing
31 Fund enacted by the Legislature. If moneys appropriated for
32 purposes of this section are not authorized for expenditure to
33 provide laboratory facilities, the department may nevertheless
34 contract to provide laboratory testing services pursuant to this
35 section and shall perform laboratory services, including, but not
36 limited to, quality control, confirmatory, and emergency testing,
37 necessary to ensure the objectives of this program.

38 (b) The department shall charge a fee for any tests performed
39 pursuant to this section. The amount of the fee shall be established

1 and periodically adjusted by the director in order to meet the costs
2 of this section.

3 (c) The department shall inform all hospitals or physicians and
4 surgeons, or both, of required regulations and tests and may alter
5 or withdraw any of these requirements whenever sound medical
6 practice so indicates. To the extent practicable, the department
7 shall provide notice to hospitals and other payers in advance of
8 ~~any~~ *an* increase in the fees charged for the program.

9 (d) This section shall not apply if a parent or guardian of the
10 newborn child objects to a test on the ground that the test conflicts
11 with his or her religious beliefs or practices.

12 (e) The genetic disease unit is authorized to make grants or
13 contracts or payments to vendors approved by the department for
14 all of the following:

15 (1) Testing and counseling services.

16 (2) Demonstration projects to determine the desirability and
17 feasibility of additional tests or new genetic services.

18 (3) To initiate the development of genetic services in areas of
19 need.

20 (4) To purchase or provide genetic services from any sums as
21 are appropriated for this purpose.

22 (f) The genetic disease unit shall evaluate and prepare
23 recommendations on the implementation of tests for the detection
24 of hereditary and congenital diseases, including, but not limited
25 to, biotinidase deficiency and cystic fibrosis. The genetic disease
26 unit shall also evaluate and prepare recommendations on the
27 availability and effectiveness of preventative followup
28 interventions, including the use of specialized medically necessary
29 dietary products.

30 It is the intent of the Legislature that funds for the support of the
31 evaluations and recommendations required pursuant to this
32 subdivision, and for the activities authorized pursuant to
33 subdivision (e), shall be provided in the annual Budget Act
34 appropriation from the Genetic Disease Testing Fund.

35 (g) Health care providers that contract with a prepaid group
36 practice health care service plan that annually has at least 20,000
37 births among its membership, may provide, without contracting
38 with the department, any or all of the testing and counseling
39 services required to be provided under this section or the
40 regulations adopted pursuant thereto, if the services meet the

1 quality standards and adhere to the regulations established by the
2 department and the plan pays that portion of a fee established under
3 this section that is directly attributable to the department's cost of
4 administering the testing or counseling service and to any required
5 testing or counseling services provided by the state for plan
6 members. The payment by the plan, as provided in this subdivision,
7 shall be deemed to fulfill any obligation the provider or the
8 provider's patient may have to the department to pay a fee in
9 connection with the testing or counseling service.

10 (h) The department may appoint experts in the area of genetic
11 screening, including, but not limited to, cytogenetics, molecular
12 biology, prenatal, specimen collection, and ultrasound to provide
13 expert advice and opinion on the interpretation and enforcement
14 of regulations adopted pursuant to this section. These experts shall
15 be designated agents of the state with respect to their assignments.
16 These experts shall receive no salary, but shall be reimbursed for
17 expenses associated with the purposes of this section. All expenses
18 of the experts for the purposes of this section shall be paid from
19 the Genetic Disease Testing Fund.

20 SEC. 34. Section 127260 of the Health and Safety Code is
21 amended to read:

22 127260. (a) The Advisory Health Council, upon review of a
23 decision of the department, shall do one of the following:

24 ~~(a)~~

25 (1) Enter an order affirming the decision of the department if it
26 finds as to the respective basis of review that:

27 ~~(1)~~

28 (A) The application was processed and the hearing conducted
29 was consistent with this chapter, or that any inconsistency with
30 respect thereto was immaterial to the decision of the department.

31 ~~(2)~~

32 (B) There is substantial evidence in the record supporting the
33 department's decision.

34 ~~(3)~~

35 (C) The department has not acted in an arbitrary and capricious
36 manner.

37 ~~(b)~~

38 (2) Enter an order remanding the decision of the department if
39 it finds as to the respective basis of review that:

40 ~~(1)~~

1 (A) The application was not processed or the hearing conducted
2 was not consistent with this chapter, and this inconsistency was
3 material to the decision rendered by the department.

4 ~~(2)~~

5 (B) There is no substantial evidence in the record supporting
6 the decision.

7 ~~(3)~~

8 (C) The department has acted in an arbitrary or capricious
9 manner.

10 ~~(e)~~

11 (3) Enter an order reversing the decision of the department
12 ~~where~~ if it finds as to the respective basis of review that:

13 ~~(1)~~

14 (A) The application was not processed or the hearing conducted
15 was not consistent with the provisions of this chapter, and this
16 inconsistency was material to the decision rendered by the
17 department.

18 ~~(2)~~

19 (B) There is no substantial evidence in the record supporting
20 the decision.

21 ~~(3)~~

22 (C) The department has acted in an arbitrary or capricious
23 manner.

24 ~~Orders~~

25 (b) *Orders* of the council authorized by this section shall be
26 made only upon the affirmative vote of a majority of the council,
27 with at least six of the affirmative votes cast by the following
28 members:

29 ~~(a)~~

30 (1) Representative of consumers of services for persons with
31 intellectual disabilities appointed by the Governor.

32 ~~(b)~~

33 (2) Representative of consumers of mental health services
34 appointed by the Governor.

35 ~~(c)~~

36 (3) Representative of local government appointed by the
37 Governor.

38 ~~(d)~~

1 (4) Representatives of the general consumer public appointed
2 by the Governor, Senate Committee on Rules, or Speaker of the
3 Assembly.

4 (e)

5 (5) Members of the Legislature appointed by the Senate
6 Committee on Rules or Speaker of the Assembly.

7 SEC. 35. Section 129395 of the Health and Safety Code is
8 amended to read:

9 129395. "Hospital" includes hospitals for the chronically ill
10 and impaired, public health centers, community mental health
11 centers, facilities for persons with intellectual disabilities, and
12 general, tuberculosis, mental and other types of hospitals and
13 related facilities,—~~such as~~ *including* laboratories, outpatient
14 departments, nurses' home and training facilities, and central
15 service facilities operated in connection with hospitals, diagnostic
16 or treatment centers, nursing homes, and rehabilitation facilities,
17 but except for facilities for persons with intellectual disabilities
18 does not include any institution furnishing primarily domiciliary
19 care.

20 SEC. 36. Section 10118 of the Insurance Code is amended to
21 read:

22 10118. A policy of disability insurance delivered or issued for
23 delivery in this state more than 120 days after the effective date
24 of this section, that provides that coverage of a dependent child
25 shall terminate upon attainment of the limiting age for dependent
26 children specified in the policy or contract, shall also provide in
27 substance that attainment of the limiting age shall not operate to
28 terminate the coverage of—~~such~~ *the* child while the child is and
29 continues to be both (a) incapable of self-sustaining employment
30 by reason of intellectual disability or physical handicap and (b)
31 chiefly dependent upon the insured for support and maintenance,
32 provided proof of the incapacity and dependency is furnished to
33 the insurer by the insured within 31 days of the child's attainment
34 of the limiting age and subsequently as may be required by the
35 insurer, but not more frequently than annually after the two-year
36 period following the child's attainment of the limiting age.

37 Disability policies currently approved by the commissioner
38 ~~which~~ *that* are delivered or issued for delivery more than 120 days
39 after the effective date of this section shall be automatically
40 construed to be in compliance with this section and need not be

1 refiled or reprinted. Disability policies submitted to the
2 commissioner for approval on and after the effective date of this
3 section shall contain provisions in compliance with this section.

4 SEC. 37. Section 10124 of the Insurance Code is amended to
5 read:

6 10124. (a) A self-insured employee welfare benefit plan
7 delivered or issued for delivery in this state more than 120 days
8 after the effective date of this section, that provides that coverage
9 of a dependent child of an employee shall terminate upon
10 attainment of the limiting age for dependent children specified in
11 the policy or contract, shall also provide in substance that
12 attainment of the limiting age shall not operate to terminate the
13 coverage of the child while the child is and continues to be both
14 (a) incapable of self-sustaining employment by reason of
15 intellectual disability or physical handicap and (b) chiefly
16 dependent upon the employee for support and maintenance,
17 provided proof of the incapacity and dependency is furnished to
18 the employer or employee organization providing the plan or
19 program of benefits by the employee within 31 days of the child's
20 attainment of the limiting age and subsequently as may be required
21 by such employer or employee organization, but not more
22 frequently than annually after the two-year period following the
23 child's attainment of the limiting age.

24 (b) As used in this section, "self-insured employee welfare
25 benefit plan" means ~~any~~ a plan or program of benefits provided
26 by an employer or an employee organization, or both, for the
27 purpose of providing hospital, medical, surgical, nursing, or dental
28 services, or indemnification for the costs incurred for ~~such~~ these
29 services, to ~~such~~ the employer's employees or their dependents.

30 SEC. 38. Section 10203.4 of the Insurance Code is amended
31 to read:

32 10203.4. (a) Insurance under ~~any~~ a group life insurance policy
33 issued pursuant to Sections 10202, 10202.8, 10203, 10203.1, and
34 10203.7 may be extended to insure the dependents, or any class
35 or classes thereof, of each insured employee who so elects, in
36 amounts in accordance with some plan that precludes individual
37 selection and that shall not be in excess of 100 percent of the
38 insurance on the life of the insured employee.

39 (b) "Dependent" includes the member's spouse and all children
40 from birth until 26 years of age, or a child 26 years of age or older

1 who is both incapable of self-sustaining employment by reason of
2 intellectual disability or physical handicap and chiefly dependent
3 upon the employee for support and maintenance if proof of the
4 incapacity and dependency is furnished to the insurer by the
5 employee within 31 days of the child's attainment of the limiting
6 age and subsequently as may be required by the insurer, but not
7 more frequently than annually after the two-year period following
8 the child's attainment of the limiting age.

9 (c) The premiums for the insurance on the dependents may be
10 paid by the employer, the employee, or the employer and the
11 employee jointly.

12 SEC. 39. Section 1001.20 of the Penal Code is amended to
13 read:

14 1001.20. As used in this chapter:

15 (a) "Cognitive Developmental Disability" means any of the
16 following:

17 (1) "Intellectual disability" means a condition of significantly
18 subaverage general intellectual functioning existing concurrently
19 with deficits in adaptive behavior and manifested during the
20 developmental period.

21 (2) "Autism" means a diagnosed condition of markedly
22 abnormal or impaired development in social interaction, in
23 communication, or in both, with a markedly restricted repertoire
24 of activity and interests.

25 (3) Disabling conditions found to be closely related to mental
26 retardation or autism, or that require treatment similar to that
27 required for individuals with intellectual disability or autism, and
28 that would qualify an individual for services provided under the
29 Lanterman Developmental Disabilities Services Act.

30 (b) "Diversion-related treatment and habilitation" means, but
31 is not limited to, specialized services or special adaptations of
32 generic services, directed towards the alleviation of cognitive
33 developmental disability or towards social, personal, physical, or
34 economic habilitation or rehabilitation of an individual with a
35 cognitive developmental disability, and includes, but is not limited
36 to, diagnosis, evaluation, treatment, personal care, day care,
37 domiciliary care, special living arrangements, physical,
38 occupational, and speech therapy, training, education, sheltered
39 employment, mental health services, recreation, counseling of the
40 individual with this disability and of his or her family, protective

1 and other social and socio-legal services, information and referral
2 services, follow-along services, and transportation services
3 necessary to assure delivery of services to persons with cognitive
4 developmental disabilities.

5 (c) “Regional center” means a regional center for the
6 developmentally disabled established under the Lanterman
7 Developmental Disabilities Services Act that is organized as a
8 private nonprofit community agency to plan, purchase, and
9 coordinate the delivery of services ~~which~~ *that* cannot be provided
10 by state agencies to developmentally disabled persons residing in
11 a particular geographic catchment area, and ~~which~~ *that* is licensed
12 and funded by the State Department of Developmental Services.

13 (d) “Director of a regional center” means the executive director
14 of a regional center for the developmentally disabled or his or her
15 designee.

16 (e) “Agency” means the prosecutor, the probation department,
17 and the regional center involved in a particular defendant’s case.

18 (f) “Dual agency diversion” means a treatment and habilitation
19 program developed with court approval by the regional center,
20 administered jointly by the regional center and by the probation
21 department, ~~which~~ *that* is individually tailored to the needs of the
22 defendant as derived from the defendant’s individual program plan
23 pursuant to Section 4646 of the Welfare and Institutions Code,
24 and ~~which~~ includes, but is not limited to, treatment specifically
25 addressed to the criminal offense charged, for a specified period
26 of time as prescribed in Section 1001.28.

27 (g) “Single agency diversion” means a treatment and habilitation
28 program developed with court approval by the regional center,
29 administered solely by the regional center without involvement
30 by the probation department, ~~which~~ *that* is individually tailored to
31 the needs of the defendant as derived from the defendant’s
32 individual program plan pursuant to Section 4646 of the Welfare
33 and Institutions Code, and ~~which~~ includes, but is not limited to,
34 treatment specifically addressed to the criminal offense charged,
35 for a specified period of time as prescribed in Section 1001.28.

36 SEC. 40. Section 1346 of the Penal Code is amended to read:

37 1346. (a) When a defendant has been charged with a violation
38 of Section 220, 243.4, 261, 261.5, 264.1, 273a, 273d, 285, 286,
39 288, 288a, 288.5, 289, or 647.6, and the victim either is a person
40 15 years of age or less or is developmentally disabled as a result

1 of intellectual disability, as specified in subdivision (a) of Section
2 4512 of the Welfare and Institutions Code, the people may apply
3 for an order that the victim's testimony at the preliminary hearing,
4 in addition to being stenographically recorded, be recorded and
5 preserved on videotape.

6 (b) The application for the order shall be in writing and made
7 three days prior to the preliminary hearing.

8 (c) Upon timely receipt of the application, the magistrate shall
9 order that the testimony of the victim given at the preliminary
10 hearing be taken and preserved on videotape. The videotape shall
11 be transmitted to the clerk of the court in which the action is
12 pending.

13 (d) If at the time of trial the court finds that further testimony
14 would cause the victim emotional trauma so that the victim is
15 medically unavailable or otherwise unavailable within the meaning
16 of Section 240 of the Evidence Code, the court may admit the
17 videotape of the victim's testimony at the preliminary hearing as
18 former testimony under Section 1291 of the Evidence Code.

19 (e) ~~Any A videotape which~~ *that* is taken pursuant to this section
20 is subject to a protective order of the court for the purpose of
21 protecting the privacy of the victim. This subdivision does not
22 affect the provisions of subdivision (b) of Section 868.7.

23 (f) ~~Any A videotape made pursuant to this section shall be made~~
24 ~~available to the prosecuting attorney, the defendant, and his or her~~
25 ~~attorney for viewing during ordinary business hours.~~ ~~Any A~~
26 ~~videotape which~~ *that* is made available pursuant to this section is
27 subject to a protective order of the court for the purpose of
28 protecting the privacy of the victim.

29 (g) The tape shall be destroyed after five years have elapsed
30 from the date of entry of judgment; provided, however, that if an
31 appeal is filed, the tape shall not be destroyed until a final judgment
32 on appeal has been rendered.

33 SEC. 41. Section 1370.1 of the Penal Code is amended to read:

34 1370.1. (a) (1) (A) If the defendant is found mentally
35 competent, the criminal process shall resume, the trial on the
36 offense charged shall proceed, and judgment may be pronounced.

37 (B) If the defendant is found mentally incompetent and is
38 developmentally disabled, the trial or judgment shall be suspended
39 until the defendant becomes mentally competent.

(i) Except as provided in clause (ii) or (iii), the court shall consider a recommendation for placement, which recommendation shall be made to the court by the director of a regional center or designee. In the meantime, the court shall order that the mentally incompetent defendant be delivered by the sheriff or other person designated by the court to a state hospital or developmental center for the care and treatment of the developmentally disabled or any other available residential facility approved by the director of a regional center for the developmentally disabled established under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code as will promote the defendant's speedy attainment of mental competence, or be placed on outpatient status pursuant to the provisions of Section 1370.4 and Title 15 (commencing with Section 1600) of Part 2.

(ii) However, if the action against the defendant who has been found mentally incompetent is on a complaint charging a felony offense specified in Section 290, the prosecutor shall determine whether the defendant previously has been found mentally incompetent to stand trial pursuant to this chapter on a charge of a Section 290 offense, or whether the defendant is currently the subject of a pending Section 1368 proceeding arising out of a charge of a Section 290 offense. If either determination is made, the prosecutor shall so notify the court and defendant in writing. After this notification, and opportunity for hearing, the court shall order that the defendant be delivered by the sheriff to a state hospital or other secure treatment facility for the care and treatment of the developmentally disabled unless the court makes specific findings on the record that an alternative placement would provide more appropriate treatment for the defendant and would not pose a danger to the health and safety of others.

(iii) If the action against the defendant who has been found mentally incompetent is on a complaint charging a felony offense specified in Section 290 and the defendant has been denied bail pursuant to subdivision (b) of Section 12 of Article I of the California Constitution because the court has found, based upon clear and convincing evidence, a substantial likelihood that the person's release would result in great bodily harm to others, the court shall order that the defendant be delivered by the sheriff to a state hospital for the care and treatment of the developmentally disabled unless the court makes specific findings on the record

1 that an alternative placement would provide more appropriate
2 treatment for the defendant and would not pose a danger to the
3 health and safety of others.

4 (iv) The clerk of the court shall notify the Department of Justice
5 in writing of any finding of mental incompetence with respect to
6 a defendant who is subject to clause (ii) or (iii) for inclusion in his
7 or her state summary criminal history information.

8 (C) Upon becoming competent, the court shall order that the
9 defendant be returned to the committing court pursuant to the
10 procedures set forth in paragraph (2) of subdivision (a) of Section
11 1372 or by another person designated by the court. The court shall
12 further determine conditions under which the person may be absent
13 from the placement for medical treatment, social visits, and other
14 similar activities. Required levels of supervision and security for
15 these activities shall be specified.

16 (D) The court shall transmit a copy of its order to the regional
17 center director or designee and to the Director of Developmental
18 Services.

19 (E) A defendant charged with a violent felony may not be placed
20 in a facility or delivered to a state hospital, developmental center,
21 or residential facility pursuant to this subdivision unless the facility,
22 state hospital, developmental center, or residential facility has a
23 secured perimeter or a locked and controlled treatment facility,
24 and the judge determines that the public safety will be protected.

25 (F) For purposes of this paragraph, “violent felony” means an
26 offense specified in subdivision (c) of Section 667.5.

27 (G) A defendant charged with a violent felony may be placed
28 on outpatient status, as specified in Sections 1370.4 or 1600, only
29 if the court finds that the placement will not pose a danger to the
30 health or safety of others.

31 (H) As used in this section, “developmental disability” means
32 a disability that originates before an individual attains 18 years of
33 age, continues, or can be expected to continue, indefinitely and
34 constitutes a substantial handicap for the individual, and shall not
35 include other handicapping conditions that are solely physical in
36 nature. As defined by the Director of Developmental Services, in
37 consultation with the Superintendent of Public Instruction, this
38 term shall include intellectual disability, cerebral palsy, epilepsy,
39 and autism. This term shall also include handicapping conditions
40 found to be closely related to intellectual disability or to require

1 treatment similar to that required for individuals with an intellectual
2 disability, but shall not include other handicapping conditions that
3 are solely physical in nature.

4 (2) Prior to making the order directing the defendant be confined
5 in a state hospital, developmental center, or other residential facility
6 or be placed on outpatient status, the court shall order the regional
7 center director or designee to evaluate the defendant and to submit
8 to the court within 15 judicial days of the order a written
9 recommendation as to whether the defendant should be committed
10 to a state hospital or developmental center or to any other available
11 residential facility approved by the regional center director. ~~No~~A
12 person shall *not* be admitted to a state hospital, developmental
13 center, or other residential facility or accepted for outpatient status
14 under Section 1370.4 without having been evaluated by the regional
15 center director or designee.

16 (3) When the court orders that the defendant be confined in a
17 state hospital or other secure treatment facility pursuant to clause
18 (ii) or (iii) of subparagraph (B) of paragraph (1), the court shall
19 provide copies of the following documents which shall be taken
20 with the defendant to the state hospital or other secure treatment
21 facility where the defendant is to be confined:

22 (A) State summary criminal history information.

23 (B) Any arrest reports prepared by the police department or
24 other law enforcement agency.

25 (C) Records of a finding of mental incompetence pursuant to
26 this chapter arising out of a complaint charging a felony offense
27 specified in Section 290 or a pending Section 1368 proceeding
28 arising out of a charge of a Section 290 offense.

29 (4) When the defendant is committed to a residential facility
30 pursuant to clause (i) of subparagraph (B) of paragraph (1) or the
31 court makes the findings specified in clause (ii) or (iii) of
32 subparagraph (B) of paragraph (1) to assign the defendant to a
33 facility other than a state hospital or other secure treatment facility,
34 the court shall order that notice be given to the appropriate law
35 enforcement agency or agencies having local jurisdiction at the
36 site of the placement facility of a finding of mental incompetence
37 pursuant to this chapter arising out of a charge of a Section 290
38 offense.

39 (5) (A) If the defendant is committed or transferred to a state
40 hospital or developmental center pursuant to this section, the court

1 may, upon receiving the written recommendation of the executive
2 director of the state hospital or developmental center and the
3 regional center director that the defendant be transferred to a
4 residential facility approved by the regional center director, order
5 the defendant transferred to that facility. If the defendant is
6 committed or transferred to a residential facility approved by the
7 regional center director, the court may, upon receiving the written
8 recommendation of the regional center director, transfer the
9 defendant to a state hospital or developmental center or to another
10 residential facility approved by the regional center director.

11 In the event of dismissal of the criminal charges before the
12 defendant recovers competence, the person shall be subject to the
13 applicable provisions of the Lanterman-Petris-Short Act (Part 1
14 (commencing with Section 5000) of Division 5 of the Welfare and
15 Institutions Code) or to commitment or detention pursuant to a
16 petition filed pursuant to Section 6502 of the Welfare and
17 Institutions Code.

18 The defendant or prosecuting attorney may contest either kind
19 of order of transfer by filing a petition with the court for a hearing,
20 which shall be held if the court determines that sufficient grounds
21 exist. At the hearing, the prosecuting attorney or the defendant
22 may present evidence bearing on the order of transfer. The court
23 shall use the same standards as used in conducting probation
24 revocation hearings pursuant to Section 1203.2.

25 Prior to making an order for transfer under this section, the court
26 shall notify the defendant, the attorney of record for the defendant,
27 the prosecuting attorney, and the regional center director or
28 designee.

29 (B) If the defendant is committed to a state hospital or secure
30 treatment facility pursuant to clause (ii) or (iii) of subparagraph
31 (B) of paragraph (1) and is subsequently transferred to another
32 facility, copies of the documents specified in paragraph (3) shall
33 be taken with the defendant to the new facility. The transferring
34 facility shall also notify the appropriate law enforcement agency
35 or agencies having local jurisdiction at the site of the new facility
36 that the defendant is a person subject to clause (ii) or (iii) of
37 subparagraph (B) of paragraph (1).

38 (b) (1) Within 90 days of admission of a person committed
39 pursuant to subdivision (a), the executive director or designee of
40 the state hospital, developmental center, or other facility to which

1 the defendant is committed, or the outpatient supervisor where the
2 defendant is placed on outpatient status, shall make a written report
3 to the committing court and the regional center director or a
4 designee concerning the defendant's progress toward becoming
5 mentally competent. If the defendant has not become mentally
6 competent, but the report discloses a substantial likelihood the
7 defendant will become mentally competent within the next 90
8 days, the court may order that the defendant shall remain in the
9 state hospital, developmental center, or other facility or on
10 outpatient status for that period of time. Within 150 days of an
11 admission made pursuant to subdivision (a) or if the defendant
12 becomes mentally competent, the executive director or designee
13 of the hospital or developmental center or person in charge of the
14 facility or the outpatient supervisor shall report to the court and
15 the regional center director or his or her designee regarding the
16 defendant's progress toward becoming mentally competent. The
17 court shall provide to the prosecutor and defense counsel copies
18 of all reports under this section. If the report indicates that there
19 is no substantial likelihood that the defendant has become mentally
20 competent, the committing court shall order the defendant to be
21 returned to the court for proceedings pursuant to paragraph (2) of
22 subdivision (c). The court shall transmit a copy of its order to the
23 regional center director or designee and to the executive director
24 of the developmental center.

25 (2) A defendant who has been committed or has been on
26 outpatient status for 18 months, and is still hospitalized or on
27 outpatient status shall be returned to the committing court where
28 a hearing shall be held pursuant to the procedures set forth in
29 Section 1369. The court shall transmit a copy of its order to the
30 regional center director or designee and the executive director of
31 the developmental center.

32 (3) If it is determined by the court that no treatment for the
33 defendant's mental impairment is being conducted, the defendant
34 shall be returned to the committing court. A copy of this order
35 shall be sent to the regional center director or designee and to the
36 executive director of the developmental center.

37 (4) At each review by the court specified in this subdivision,
38 the court shall determine if the security level of housing and
39 treatment is appropriate and may make an order in accordance
40 with its determination.

1 (c) (1) (A) At the end of three years from the date of
2 commitment or a period of commitment equal to the maximum
3 term of imprisonment provided by law for the most serious offense
4 charged in the information, indictment, or misdemeanor complaint,
5 whichever is shorter, ~~any~~ a defendant who has not become mentally
6 competent shall be returned to the committing court.

7 (B) The court shall notify the regional center director or designee
8 and the executive director of the developmental center of that
9 return and of any resulting court orders.

10 (2) In the event of dismissal of the criminal charges before the
11 defendant becomes mentally competent, the defendant shall be
12 subject to the applicable provisions of the Lanterman-Petris-Short
13 Act (Part 1 (commencing with Section 5000) of Division 5 of the
14 Welfare and Institutions Code), or to commitment and detention
15 pursuant to a petition filed pursuant to Section 6502 of the Welfare
16 and Institutions Code. If it is found that the person is not subject
17 to commitment or detention pursuant to the applicable provision
18 of the Lanterman-Petris-Short Act (Part 1 (commencing with
19 Section 5000) of Division 5 of the Welfare and Institutions Code)
20 or to commitment or detention pursuant to a petition filed pursuant
21 to Section 6502 of the Welfare and Institutions Code, the individual
22 shall not be subject to further confinement pursuant to this article
23 and the criminal action remains subject to dismissal pursuant to
24 Section 1385. The court shall notify the regional center director
25 and the executive director of the developmental center of any
26 dismissal.

27 (d) Notwithstanding any other provision of this section, the
28 criminal action remains subject to dismissal pursuant to Section
29 1385. If at any time prior to the maximum period of time allowed
30 for proceedings under this article, the regional center director
31 concludes that the behavior of the defendant related to the
32 defendant's criminal offense has been eliminated during time spent
33 in court-ordered programs, the court may, upon recommendation
34 of the regional center director, dismiss the criminal charges. The
35 court shall transmit a copy of any order of dismissal to the regional
36 center director and to the executive director of the developmental
37 center.

38 (e) For the purpose of this section, "secure treatment facility"
39 shall not include, except for state mental hospitals, state
40 developmental centers, and correctional treatment facilities, ~~any~~

1 a facility licensed pursuant to Chapter 2 (commencing with Section
2 1250) of, Chapter 3 (commencing with Section 1500) of, or Chapter
3 3.2 (commencing with Section 1569) of, Division 2 of the Health
4 and Safety Code, or ~~any~~ a community board and care facility.

5 SEC. 42. Section 1376 of the Penal Code is amended to read:

6 1376. (a) As used in this section, “intellectually disability”
7 means the condition of significantly subaverage general intellectual
8 functioning existing concurrently with deficits in adaptive behavior
9 and manifested before 18 years of age.

10 (b) (1) In any case in which the prosecution seeks the death
11 penalty, the defendant may, at a reasonable time prior to the
12 commencement of trial, apply for an order directing that a hearing
13 to determine intellectual disability be conducted. Upon the
14 submission of a declaration by a qualified expert stating his or her
15 opinion that the defendant has an intellectual disability, the court
16 shall order a hearing to determine whether the defendant has an
17 intellectual disability. At the request of the defendant, the court
18 shall conduct the hearing without a jury prior to the commencement
19 of the trial. The defendant’s request for a court hearing prior to
20 trial shall constitute a waiver of a jury hearing on the issue of
21 intellectual disability. If the defendant does not request a court
22 hearing, the court shall order a jury hearing to determine if the
23 defendant has an intellectual disability. The jury hearing on
24 intellectual disability shall occur at the conclusion of the phase of
25 the trial in which the jury has found the defendant guilty with a
26 finding that one or more of the special circumstances enumerated
27 in Section 190.2 are true. Except as provided in paragraph (3), the
28 same jury shall make a finding that the defendant has an intellectual
29 disability, or that the defendant does not have an intellectual
30 disability.

31 (2) For the purposes of the procedures set forth in this section,
32 the court or jury shall decide only the question of the defendant’s
33 intellectual disability. The defendant shall present evidence in
34 support of the claim that he or she has an intellectual disability.
35 The prosecution shall present its case regarding the issue of whether
36 the defendant has an intellectual disability. Each party may offer
37 rebuttal evidence. The court, for good cause in furtherance of
38 justice, may permit either party to reopen its case to present
39 evidence in support of or opposition to the claim of intellectual
40 disability. Nothing in this section shall prohibit the court from

1 making orders reasonably necessary to ensure the production of
2 evidence sufficient to determine whether or not the defendant has
3 an intellectual disability, including, but not limited to, the
4 appointment of, and examination of the defendant by, qualified
5 experts. ~~No~~ A statement made by the defendant during an
6 examination ordered by the court ~~shall be~~ *is not* admissible in the
7 trial on the defendant's guilt.

8 (3) At the close of evidence, the prosecution shall make its final
9 argument, and the defendant shall conclude with his or her final
10 argument. The burden of proof shall be on the defense to prove
11 by a preponderance of the evidence that the defendant has an
12 intellectual disability. The jury shall return a verdict that either the
13 defendant has an intellectual disability or the defendant does not
14 have an intellectual disability. The verdict of the jury shall be
15 unanimous. In any case in which the jury has been unable to reach
16 a unanimous verdict that the defendant has an intellectual disability,
17 and does not reach a unanimous verdict that the defendant does
18 not have an intellectual disability, the court shall dismiss the jury
19 and order a new jury impaneled to try the issue of intellectual
20 disability. The issue of guilt shall not be tried by the new jury.

21 (c) In the event the hearing is conducted before the court prior
22 to the commencement of the trial, the following shall apply:

23 (1) If the court finds that the defendant has an intellectual
24 disability, the court shall preclude the death penalty and the
25 criminal trial thereafter shall proceed as in any other case in which
26 a sentence of death is not sought by the prosecution. If the
27 defendant is found guilty of murder in the first degree, with a
28 finding that one or more of the special circumstances enumerated
29 in Section 190.2 are true, the court shall sentence the defendant to
30 confinement in the state prison for life without the possibility of
31 parole. The jury shall not be informed of the prior proceedings or
32 the findings concerning the defendant's claim of intellectual
33 disability.

34 (2) If the court finds that the defendant does not have an
35 intellectual disability, the trial court shall proceed as in any other
36 case in which a sentence of death is sought by the prosecution.
37 The jury shall not be informed of the prior proceedings or the
38 findings concerning the defendant's claim of intellectual disability.

39 (d) In the event the hearing is conducted before the jury after
40 the defendant is found guilty with a finding that one or more of

1 the special circumstances enumerated in Section 190.2 are true,
2 the following shall apply:

3 (1) If the jury finds that the defendant has an intellectual
4 disability, the court shall preclude the death penalty and shall
5 sentence the defendant to confinement in the state prison for life
6 without the possibility of parole.

7 (2) If the jury finds that the defendant does not have an
8 intellectual disability, the trial shall proceed as in any other case
9 in which a sentence of death is sought by the prosecution.

10 (e) In any case in which the defendant has not requested a court
11 hearing as provided in subdivision (b), and has entered a plea of
12 not guilty by reason of insanity under Sections 190.4 and 1026,
13 the hearing on intellectual disability shall occur at the conclusion
14 of the sanity trial if the defendant is found sane.

15 SEC. 43. Section 2962 of the Penal Code is amended to read:

16 2962. As a condition of parole, a prisoner who meets the
17 following criteria shall be required to be treated by the State
18 Department of Mental Health, and the State Department of Mental
19 Health shall provide the necessary treatment:

20 (a) (1) The prisoner has a severe mental disorder that is not in
21 remission or cannot be kept in remission without treatment.

22 (2) The term “severe mental disorder” means an illness or
23 disease or condition that substantially impairs the person’s thought,
24 perception of reality, emotional process, or judgment; or ~~which~~
25 *that* grossly impairs behavior; or that demonstrates evidence of an
26 acute brain syndrome for which prompt remission, in the absence
27 of treatment, is unlikely. The term “severe mental disorder” as
28 used in this section does not include a personality or adjustment
29 disorder, epilepsy, intellectual disability or other developmental
30 disabilities, or addiction to or abuse of intoxicating substances.

31 (3) The term “remission” means a finding that the overt signs
32 and symptoms of the severe mental disorder are controlled either
33 by psychotropic medication or psychosocial support. A person
34 “cannot be kept in remission without treatment” if during the year
35 prior to the question being before the Board of Prison Terms or a
36 trial court, he or she has been in remission and he or she has been
37 physically violent, except in self-defense, or he or she has made
38 a serious threat of substantial physical harm upon the person of
39 another so as to cause the target of the threat to reasonably fear
40 for his or her safety or the safety of his or her immediate family,

1 or he or she has intentionally caused property damage, or he or
2 she has not voluntarily followed the treatment plan. In determining
3 if a person has voluntarily followed the treatment plan, the standard
4 shall be whether the person has acted as a reasonable person would
5 in following the treatment plan.

6 (b) The severe mental disorder was one of the causes of or was
7 an aggravating factor in the commission of a crime for which the
8 prisoner was sentenced to prison.

9 (c) The prisoner has been in treatment for the severe mental
10 disorder for 90 days or more within the year prior to the prisoner's
11 parole or release.

12 (d) (1) Prior to release on parole, the person in charge of treating
13 the prisoner and a practicing psychiatrist or psychologist from the
14 State Department of Mental Health have evaluated the prisoner at
15 a facility of the Department of Corrections and Rehabilitation, and
16 a chief psychiatrist of the Department of Corrections and
17 Rehabilitation has certified to the Board of Parole Hearings that
18 the prisoner has a severe mental disorder, that the disorder is not
19 in remission, or cannot be kept in remission without treatment,
20 that the severe mental disorder was one of the causes or was an
21 aggravating factor in the prisoner's criminal behavior, that the
22 prisoner has been in treatment for the severe mental disorder for
23 90 days or more within the year prior to his or her parole release
24 day, and that by reason of his or her severe mental disorder the
25 prisoner represents a substantial danger of physical harm to others.
26 For prisoners being treated by the State Department of Mental
27 Health pursuant to Section 2684, the certification shall be by a
28 chief psychiatrist of the Department of Corrections and
29 Rehabilitation, and the evaluation shall be done at a state hospital
30 by the person at the state hospital in charge of treating the prisoner
31 and a practicing psychiatrist or psychologist from the Department
32 of Corrections and Rehabilitation.

33 (2) If the professionals doing the evaluation pursuant to
34 paragraph (1) do not concur that (A) the prisoner has a severe
35 mental disorder, (B) that the disorder is not in remission or cannot
36 be kept in remission without treatment, or (C) that the severe
37 mental disorder was a cause of, or aggravated, the prisoner's
38 criminal behavior, and a chief psychiatrist has certified the prisoner
39 to the Board of Parole Hearings pursuant to this paragraph, then

1 the Board of Parole Hearings shall order a further examination by
2 two independent professionals, as provided for in Section 2978.

3 (3) If at least one of the independent professionals who evaluate
4 the prisoner pursuant to paragraph (2) concurs with the chief
5 psychiatrist's certification of the issues described in paragraph (2),
6 this subdivision shall be applicable to the prisoner. The
7 professionals appointed pursuant to Section 2978 shall inform the
8 prisoner that the purpose of their examination is not treatment but
9 to determine if the prisoner meets certain criteria to be involuntarily
10 treated as a mentally disordered offender. It is not required that
11 the prisoner appreciate or understand that information.

12 (e) The crime referred to in subdivision (b) meets both of the
13 following criteria:

14 (1) The defendant received a determinate sentence pursuant to
15 Section 1170 for the crime.

16 (2) The crime is one of the following:

17 (A) Voluntary manslaughter.

18 (B) Mayhem.

19 (C) Kidnapping in violation of Section 207.

20 (D) Any robbery wherein it was charged and proved that the
21 defendant personally used a deadly or dangerous weapon, as
22 provided in subdivision (b) of Section 12022, in the commission
23 of that robbery.

24 (E) Carjacking, as defined in subdivision (a) of Section 215, if
25 it is charged and proved that the defendant personally used a deadly
26 or dangerous weapon, as provided in subdivision (b) of Section
27 12022, in the commission of the carjacking.

28 (F) Rape, as defined in paragraph (2) or (6) of subdivision (a)
29 of Section 261 or paragraph (1) or (4) of subdivision (a) of Section
30 262.

31 (G) Sodomy by force, violence, duress, menace, or fear of
32 immediate and unlawful bodily injury on the victim or another
33 person.

34 (H) Oral copulation by force, violence, duress, menace, or fear
35 of immediate and unlawful bodily injury on the victim or another
36 person.

37 (I) Lewd acts on a child under 14 years of age in violation of
38 Section 288.

39 (J) Continuous sexual abuse in violation of Section 288.5.

1 (K) The offense described in subdivision (a) of Section 289 if
2 the act was accomplished against the victim's will by force,
3 violence, duress, menace, or fear of immediate and unlawful bodily
4 injury on the victim or another person.

5 (L) Arson in violation of subdivision (a) of Section 451, or arson
6 in violation of any other provision of Section 451 or in violation
7 of Section 455 if the act posed a substantial danger of physical
8 harm to others.

9 (M) Any felony in which the defendant used a firearm which
10 use was charged and proved as provided in Section 12022.5,
11 12022.53, or 12022.55.

12 (N) A violation of Section 18745.

13 (O) Attempted murder.

14 (P) A crime not enumerated in subparagraphs (A) to (O),
15 inclusive, in which the prisoner used force or violence, or caused
16 serious bodily injury as defined in paragraph (4) of subdivision (f)
17 of Section 243.

18 (Q) A crime in which the perpetrator expressly or impliedly
19 threatened another with the use of force or violence likely to
20 produce substantial physical harm in such a manner that a
21 reasonable person would believe and expect that the force or
22 violence would be used. For purposes of this subparagraph,
23 substantial physical harm shall not require proof that the threatened
24 act was likely to cause great or serious bodily injury.

25 (f) As used in this chapter, "substantial danger of physical harm"
26 does not require proof of a recent overt act.

27 SEC. 44. Section 1420 of the Probate Code is amended to read:

28 1420. "Developmental disability" means a disability that
29 originates before an individual attains 18 years of age, continues,
30 or can be expected to continue, indefinitely, and constitutes a
31 substantial handicap for the individual. As defined by the Director
32 of Developmental Services, in consultation with the Superintendent
33 of Public Instruction, this term includes intellectual disability,
34 cerebral palsy, epilepsy, and autism. This term also includes
35 handicapping conditions found to be closely related to intellectual
36 disability or to require treatment similar to that required for
37 individuals with an intellectual disability, but does not include
38 other handicapping conditions that are solely physical in nature.

39 SEC. 45. Section 25276 of the Vehicle Code is amended to
40 read:

1 25276. (a) A motor vehicle designed for carrying more than
2 eight persons, including the driver, owned by a private, nonprofit
3 organization that provides training or other activities for persons
4 who have intellectual or physical disabilities, or both, and that is
5 certified by the Department of Rehabilitation or licensed by the
6 State Department of Developmental Services, with respect to the
7 providing of this training or other activities, may be equipped with
8 a flashing amber light signal system.

9 (b) A motor vehicle, described in subdivision (a), may, while
10 actually engaged in the transportation of persons described in
11 subdivision (a) to or from a training or activity center operated by
12 the organization, display the flashing amber lights of the system
13 when necessarily parked upon a highway and in the process of
14 loading or unloading persons.

15 (c) Subdivisions (a) and (b) apply to a motor vehicle that is
16 rented, leased, or chartered by the organization.

17 SEC. 46. Section 4417 of the Welfare and Institutions Code is
18 amended to read:

19 4417. The State Department of Developmental Services may:

20 (a) Disseminate educational information relating to the
21 prevention, diagnosis and treatment of intellectual disability.

22 (b) Upon request, advise all public officers, organizations and
23 agencies interested in the developmental disabilities of the people
24 of the state.

25 (c) Conduct ~~such~~ educational and related work ~~as that~~ will tend
26 to encourage the development of proper developmental disabilities
27 facilities throughout the state.

28 The department may organize, establish and maintain community
29 mental hygiene clinics for the prevention, early ~~diagnosis~~ *diagnosis*,
30 and treatment of intellectual disability. ~~Such~~ *These* clinics may be
31 maintained only for persons not requiring institutional care, who
32 voluntarily seek the aid of ~~such the~~ clinics. ~~Such~~ *These* clinics may
33 be maintained at the locations in the communities of the state
34 designated by the director, or at any institution under the
35 jurisdiction of the department designated by the director.

36 The department may establish ~~such~~ rules and regulations ~~as that~~
37 are necessary to carry out the provisions of this section. This
38 section does not authorize any form of compulsory medical or
39 physical examination, treatment, or control of any person.

1 SEC. 47. Section 4426 of the Welfare and Institutions Code is
2 amended to read:

3 4426. The department may inquire into the manner in which
4 a person with an intellectual disability who is subject to
5 commitment, not confined in a state hospital, is cared for and
6 maintained. If, in its judgment, the person is not properly and
7 suitably cared for, the department may apply to a judge of the
8 superior court for an order to commit him or her to a state hospital
9 under the provisions of this code. This order shall not be made
10 unless the judge finds, and certifies in the order, that the person is
11 not properly or suitably cared for by his or her relatives, legal
12 guardian, or conservator, or that it is dangerous to the public to
13 allow him or her to be cared for and maintained by the relatives,
14 legal guardian, or conservator.

15 SEC. 48. Section 4512 of the Welfare and Institutions Code is
16 amended to read:

17 4512. As used in this division:

18 (a) “Developmental disability” means a disability that originates
19 before an individual attains 18 years of age, continues, or can be
20 expected to continue, indefinitely, and constitutes a substantial
21 disability for that individual. As defined by the Director of
22 Developmental Services, in consultation with the Superintendent
23 of Public Instruction, this term shall include intellectual disability,
24 cerebral palsy, epilepsy, and autism. This term shall also include
25 disabling conditions found to be closely related to intellectual
26 disability or to require treatment similar to that required for
27 individuals with intellectual disability, but shall not include other
28 handicapping conditions that are solely physical in nature.

29 (b) (1) “Services and supports for persons with developmental
30 disabilities” means specialized services and supports or special
31 adaptations of generic services and supports directed toward the
32 alleviation of a developmental disability or toward the social,
33 personal, physical, or economic habilitation or rehabilitation of an
34 individual with a developmental disability, or toward the
35 achievement and maintenance of independent, productive, normal
36 lives. The determination of ~~which~~ services and supports *that* are
37 necessary for each consumer shall be made through the individual
38 program plan process. The determination shall be made on the
39 basis of the needs and preferences of the consumer or, when
40 appropriate, the consumer’s family, and shall include consideration

1 of a range of service options proposed by individual program plan
2 participants, the effectiveness of each option in meeting the goals
3 stated in the individual program plan, and the cost-effectiveness
4 of each option. ~~Services~~

5 (2) *Services* and supports listed in the individual program plan
6 may include, but are not limited to, *any of the following*: diagnosis,
7 evaluation, treatment, personal care, day care, domiciliary care,
8 special living arrangements, physical, occupational, and speech
9 therapy, training, education, supported and sheltered employment,
10 mental health services, recreation, counseling of the individual
11 with a developmental disability and of his or her family, protective
12 and other social and sociolegal services, information and referral
13 services, follow-along services, adaptive equipment and supplies,
14 advocacy assistance, including self-advocacy training, facilitation
15 and peer advocates, assessment, assistance in locating a home,
16 child care, behavior training and behavior modification programs,
17 camping, community integration services, community support,
18 daily living skills training, emergency and crisis intervention,
19 facilitating circles of support, habilitation, homemaker services,
20 infant stimulation programs, paid roommates, paid neighbors,
21 respite, short-term out-of-home care, social skills training,
22 specialized medical and dental care, supported living arrangements,
23 technical and financial assistance, travel training, training for
24 parents of children with developmental disabilities, training for
25 parents with developmental disabilities, vouchers, and
26 transportation services necessary to ensure delivery of services to
27 persons with developmental disabilities. ~~Nothing~~

28 (3) *Nothing* in this subdivision is intended to expand or authorize
29 a new or different service or support for any consumer unless that
30 service or support is contained in his or her individual program
31 plan.

32 (c) Notwithstanding subdivisions (a) and (b), for any
33 organization or agency receiving federal financial participation
34 under the federal Developmental Disabilities Assistance and Bill
35 of Rights Act, as amended “developmental disability” and “services
36 for persons with developmental disabilities” means the terms as
37 defined in the federal act to the extent required by federal law.

38 (d) “Consumer” means a person who has a disability that meets
39 the definition of developmental disability set forth in subdivision
40 (a).

1 (e) “Natural supports” means personal associations and
2 relationships typically developed in the community that enhance
3 the quality and security of life for people, including, but not limited
4 to, family relationships, friendships reflecting the diversity of the
5 neighborhood and the community, associations with fellow students
6 or employees in regular classrooms and workplaces, and
7 associations developed through participation in clubs,
8 organizations, and other civic activities.

9 (f) “Circle of support” means a committed group of community
10 members, who may include family members, meeting regularly
11 with an individual with developmental disabilities in order to share
12 experiences, promote autonomy and community involvement, and
13 assist the individual in establishing and maintaining natural
14 supports. A circle of support generally includes a plurality of
15 members who neither provide nor receive services or supports for
16 persons with developmental disabilities and who do not receive
17 payment for participation in the circle of support.

18 (g) “Facilitation” means the use of modified or adapted
19 materials, special instructions, equipment, or personal assistance
20 by an individual,—~~such as~~ *including* assistance with
21 communications, that will enable a consumer to understand and
22 participate to the maximum extent possible in the decisions and
23 choices that effect his or her life.

24 (h) “Family support services” means services and supports that
25 are provided to a child with developmental disabilities or his or
26 her family and that contribute to the ability of the family to reside
27 together.

28 (i) “Voucher” means—~~any~~ *an* authorized alternative form of
29 service delivery in which the consumer or family member is
30 provided with a payment, coupon, chit, or other form of
31 authorization that enables the consumer or family member to
32 choose his or her own service provider.

33 (j) “Planning team” means the individual with developmental
34 disabilities, the parents or legally appointed guardian of a minor
35 consumer or the legally appointed conservator of an adult
36 consumer, the authorized representative, including those appointed
37 pursuant to subdivision (d) of Section 4548 and subdivision (e) of
38 Section 4705, one or more regional center representatives,
39 including the designated regional center service coordinator
40 pursuant to subdivision (b) of Section 4640.7, ~~any~~ *an* individual,

1 including a service provider, invited by the consumer, the parents
2 or legally appointed guardian of a minor consumer or the legally
3 appointed conservator of an adult consumer, or the authorized
4 representative, including those appointed pursuant to subdivision
5 (d) of Section 4548 and subdivision (e) of Section 4705, and
6 including a minor's, dependent's, or ward's court-appointed
7 developmental services decisionmaker appointed pursuant to
8 Section 319, 361, or 726.

9 (k) "Stakeholder organizations" means statewide organizations
10 representing the interests of consumers, family members, service
11 providers, and statewide advocacy organizations.

12 (l) "Substantial disability" means the existence of significant
13 functional limitations in three or more of the following areas of
14 major life activity, as determined by a regional center, and as
15 appropriate to the age of the person:

- 16 (1) Self-care.
- 17 (2) Receptive and expressive language.
- 18 (3) Learning.
- 19 (4) Mobility.
- 20 (5) Self-direction.
- 21 (6) Capacity for independent living.
- 22 (7) Economic self-sufficiency.

23 ~~Any~~ A reassessment of substantial disability for purposes of
24 continuing eligibility shall utilize the same criteria under which
25 the individual was originally made eligible.

26 SEC. 49. Section 4801 of the Welfare and Institutions Code is
27 amended to read:

28 4801. (a) Judicial review shall be in the superior court for the
29 county in which the state hospital, developmental center,
30 community care facility, or health facility is located, except that,
31 if the adult has been found incompetent to stand trial and has been
32 committed pursuant to Chapter 6 (commencing with Section 1367)
33 of Title 10 of Part 2 of the Penal Code, judicial review shall be in
34 the superior court of the county that determined the question of
35 the mental competence of the defendant. The adult requesting to
36 be released shall be informed of his or her right to counsel by a
37 member of the staff of the state hospital, developmental center,
38 community care facility, or health facility and by the court; and if
39 he or she does not have an attorney for the proceedings, the court
40 shall immediately appoint the public defender or other attorney to

1 assist him or her in the preparation of a petition for the writ of
2 habeas corpus and to represent him or her in the proceedings. The
3 person shall pay the costs of those legal services if he or she is
4 able.

5 (b) At the time the petition for the writ of habeas corpus is filed
6 with the court, the clerk of the court shall transmit a copy of the
7 petition, together with notification as to the time and place of ~~any~~
8 *an* evidentiary hearing in the matter, to the parent or conservator
9 of the person seeking release or for whom release is sought and to
10 the director of the appropriate regional center. Notice shall also
11 be provided to the director of the appropriate developmental center
12 if the person seeking release or for whom release is sought resides
13 in a developmental center. The notice shall be sent by registered
14 or certified mail with proper postage prepaid, addressed to the
15 addressee's last known address, and with a return receipt requested.

16 (c) The court shall either release the adult or order an evidentiary
17 hearing to be held not sooner than five judicial days nor more than
18 10 judicial days after the petition and notice to the adult's parent
19 or conservator and to the director of the appropriate regional center
20 and developmental center are deposited in the United States mail
21 pursuant to this section.

22 (1) Except as provided in paragraph (2), if the court finds (A)
23 that the adult requesting release or for whom release is requested
24 is not developmentally disabled, or (B) that he or she is
25 developmentally disabled and that he or she is able to provide
26 safely for his or her basic personal needs for food, shelter, and
27 clothing, he or she shall be released within 72 hours. If the court
28 finds that he or she is developmentally disabled and that he or she
29 is unable to provide safely for his or her basic personal needs for
30 food, shelter, or clothing, but that a responsible person or a regional
31 center or other public or private agency is willing and able to
32 provide therefor, the court shall release the developmentally
33 disabled adult to the responsible person or regional center or other
34 public or private agency, as the case may be, subject to any
35 conditions that the court deems proper for the welfare of the
36 developmentally disabled adult and that are consistent with the
37 purposes of this division.

38 (2) If the person is charged with a violent felony and has been
39 committed to his or her current placement pursuant to Section
40 1370.1 of the Penal Code or Section 6500, and the court finds (A)

1 that the adult requesting release or for whom release is requested
2 does not have a developmental disability or an intellectual
3 disability, or (B) that he or she is able to provide safely for his or
4 her basic personal needs for food, shelter, and clothing, the court
5 shall, before releasing the person, determine that the release will
6 not pose a danger to the health or safety of others due to the
7 person's known behavior. If the court finds there is no danger
8 pursuant to the finding required by subparagraph (D) of paragraph
9 (1) of subdivision (a) of Section 1370.1 of the Penal Code, the
10 person shall be released within 72 hours. If the person's release
11 poses a danger to the health or safety of others, the court may grant
12 or deny the request, taking into account the danger to the health
13 or safety of others posed by the person. If the court finds that
14 release of the person can be made subject to conditions that the
15 court deems proper for the preservation of public health and safety
16 and the welfare of the person, the person shall be released subject
17 to those conditions.

18 (d) If in ~~any~~ a proceeding under this section, the court finds that
19 the adult is developmentally disabled and has no parent or
20 conservator, and is in need of a conservator, the court shall order
21 the appropriate regional center or the state department to initiate,
22 or cause to be initiated, proceedings for the appointment of a
23 conservator for the developmentally disabled adult.

24 (e) This section shall become operative January 1, 1988.

25 SEC. 50. Section 5002 of the Welfare and Institutions Code is
26 amended to read:

27 5002. Mentally disordered persons and persons impaired by
28 chronic alcoholism may no longer be judicially committed.

29 Mentally disordered persons shall receive services pursuant to
30 this part. Persons impaired by chronic alcoholism may receive
31 services pursuant to this part if they elect to do so pursuant to
32 Article 3 (commencing with Section 5225) of Chapter 2.

33 Epileptics may no longer be judicially committed.

34 This part shall not be construed to repeal or modify laws relating
35 to the commitment of mentally disordered sex offenders, persons
36 with an intellectual disability, and mentally disordered criminal
37 offenders, except as specifically provided in Penal Code Section
38 4011.6, or as specifically provided in other statutes.

39 SEC. 51. Section 5008 of the Welfare and Institutions Code is
40 amended to read:

1 5008. Unless the context otherwise requires, the following
2 definitions shall govern the construction of this part:

3 (a) “Evaluation” consists of multidisciplinary professional
4 analyses of a person’s medical, psychological, educational, social,
5 financial, and legal conditions that may appear to constitute a
6 problem. A person providing evaluation services shall be a properly
7 qualified professional and may be a full-time employee of an
8 agency providing evaluation services, may be a part-time employee,
9 or may be employed on a contractual basis.

10 (b) “Court-ordered evaluation” means an evaluation ordered by
11 a superior court pursuant to Article 2 (commencing with Section
12 5200) or by a court pursuant to Article 3 (commencing with Section
13 5225) of Chapter 2.

14 (c) “Intensive treatment” consists of hospital and other services
15 that may be indicated. Intensive treatment shall be provided by
16 properly qualified professionals and carried out in facilities
17 qualifying for reimbursement under the California Medical
18 Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing
19 with Section 14000) of Part 3 of Division 9, or under Title XVIII
20 of the federal Social Security Act and regulations thereunder.
21 Intensive treatment may be provided in hospitals of the United
22 States government by properly qualified professionals. Nothing
23 in this part shall be construed to prohibit an intensive treatment
24 facility from also providing 72-hour treatment and evaluation.

25 (d) “Referral” is referral of persons by each agency or facility
26 providing intensive treatment or evaluation services to other
27 agencies or individuals. The purpose of referral shall be to provide
28 for continuity of care, and may include, but need not be limited
29 to, informing the person of available services, making appointments
30 on the person’s behalf, discussing the person’s problem with the
31 agency or individual to ~~which~~ *whom* the person has been referred,
32 appraising the outcome of referrals, and arranging for personal
33 escort and transportation when necessary. Referral shall be
34 considered complete when the agency or individual to whom the
35 person has been referred accepts responsibility for providing the
36 necessary services. ~~All persons~~ *A person* shall be advised of
37 available precare services ~~which~~ *that* prevent initial recourse to
38 hospital treatment or aftercare services that support adjustment to
39 community living following hospital treatment. These services
40 may be provided through county welfare departments, State

1 Department of Mental Health, Short-Doyle programs, or other
2 local agencies.

3 Each agency or facility providing evaluation services shall
4 maintain a current and comprehensive file of all community
5 services, both public and private. These files shall contain current
6 agreements with agencies or individuals accepting referrals, as
7 well as appraisals of the results of past referrals.

8 (e) “Crisis intervention” consists of an interview or series of
9 interviews within a brief period of time, conducted by qualified
10 professionals, and designed to alleviate personal or family
11 situations that present a serious and imminent threat to the health
12 or stability of the person or the family. The interview or interviews
13 may be conducted in the home of the person or family, or on an
14 inpatient or outpatient basis with the therapy, or other services, as
15 may be appropriate. Crisis intervention may, as appropriate, include
16 suicide prevention, psychiatric, welfare, psychological, legal, or
17 other social services.

18 (f) “Prepetition screening” is a screening of all petitions for
19 court-ordered evaluation as provided in Article 2 (commencing
20 with Section 5200) of Chapter 2, consisting of a professional
21 review of all petitions; an interview with the petitioner and,
22 whenever possible, the person alleged, as a result of mental
23 disorder, to be a danger to others, or to himself or herself, or to be
24 gravely disabled, to assess the problem and explain the petition;
25 when indicated, efforts to persuade the person to receive, on a
26 voluntary basis, comprehensive evaluation, crisis intervention,
27 referral, and other services specified in this part.

28 (g) “Conservatorship investigation” means investigation by an
29 agency appointed or designated by the governing body of cases in
30 which conservatorship is recommended pursuant to Chapter 3
31 (commencing with Section 5350).

32 (h) (1) For purposes of Article 1 (commencing with Section
33 5150), Article 2 (commencing with Section 5200), and Article 4
34 (commencing with Section 5250) of Chapter 2, and for the purposes
35 of Chapter 3 (commencing with Section 5350), “gravely disabled”
36 means either of the following:

37 (A) A condition in which a person, as a result of a mental
38 disorder, is unable to provide for his or her basic personal needs
39 for food, clothing, or shelter.

1 (B) A condition in which a person, has been found mentally
2 incompetent under Section 1370 of the Penal Code and all of the
3 following facts exist:

4 (i) The indictment or information pending against the defendant
5 at the time of commitment charges a felony involving death, great
6 bodily harm, or a serious threat to the physical well-being of
7 another person.

8 (ii) The indictment or information has not been dismissed.

9 (iii) As a result of mental disorder, the person is unable to
10 understand the nature and purpose of the proceedings taken against
11 him or her and to assist counsel in the conduct of his or her defense
12 in a rational manner.

13 (2) For purposes of Article 3 (commencing with Section 5225)
14 and Article 4 (commencing with Section 5250), of Chapter 2, and
15 for the purposes of Chapter 3 (commencing with Section 5350),
16 “gravely disabled” means a condition in which a person, as a result
17 of impairment by chronic alcoholism, is unable to provide for his
18 or her basic personal needs for food, clothing, or shelter.

19 (3) The term “gravely disabled” does not include persons with
20 intellectual disabilities by reason of having an intellectual disability
21 alone.

22 (i) “Peace officer” means a duly sworn peace officer as that
23 term is defined in Chapter 4.5 (commencing with Section 830) of
24 Title 3 of Part 2 of the Penal Code who has completed the basic
25 training course established by the Commission on Peace Officer
26 Standards and Training, or any parole officer or probation officer
27 specified in Section 830.5 of the Penal Code when acting in relation
28 to cases for which he or she has a legally mandated responsibility.

29 (j) “Postcertification treatment” means an additional period of
30 treatment pursuant to Article 6 (commencing with Section 5300)
31 of Chapter 2.

32 (k) “Court,” unless otherwise specified, means a court of record.

33 (l) “Antipsychotic medication” means—~~any~~ a medication
34 customarily prescribed for the treatment of symptoms of psychoses
35 and other severe mental and emotional disorders.

36 (m) “Emergency” means a situation in which action to impose
37 treatment over the person’s objection is immediately necessary
38 for the preservation of life or the prevention of serious bodily harm
39 to the patient or others, and it is impracticable to first gain consent.

1 It is not necessary for harm to take place or become unavoidable
2 prior to treatment.

3 SEC. 52. Section 5325 of the Welfare and Institutions Code is
4 amended to read:

5 5325. Each person involuntarily detained for evaluation or
6 treatment under provisions of this part, each person admitted as a
7 voluntary patient for psychiatric evaluation or treatment to any
8 health facility, as defined in Section 1250 of the Health and Safety
9 Code, in which psychiatric evaluation or treatment is offered, and
10 each person with an intellectual disability committed to a state
11 hospital pursuant to Article 2 (commencing with Section 6500) of
12 Chapter 2 of Part 2 of Division 6 shall have the following rights,
13 a list of which shall be prominently posted in the predominant
14 languages of the community and explained in a language or
15 modality accessible to the patient in all facilities providing ~~such~~
16 *these* services and otherwise brought to his or her attention by ~~such~~
17 additional means ~~as that~~ the Director of Mental Health may
18 designate by regulation:

19 (a) To wear his or her own clothes; to keep and use his or her
20 own personal possessions including his or her toilet articles; and
21 to keep and be allowed to spend a reasonable sum of his or her
22 own money for canteen expenses and small purchases.

23 (b) To have access to individual storage space for his or her
24 private use.

25 (c) To see visitors each day.

26 (d) To have reasonable access to telephones, both to make and
27 receive confidential calls or to have calls made for them.

28 (e) To have ready access to letterwriting materials, including
29 stamps, and to mail and receive unopened correspondence.

30 (f) To refuse convulsive treatment including, but not limited to,
31 any electroconvulsive treatment, any treatment of the mental
32 condition that depends on the induction of a convulsion by any
33 means, and insulin coma treatment.

34 (g) To refuse psychosurgery. Psychosurgery is defined as those
35 operations currently referred to as lobotomy, psychiatric surgery,
36 and behavioral surgery and all other forms of brain surgery if the
37 surgery is performed for the purpose of any of the following:

38 (1) Modification or control of thoughts, feelings, actions, or
39 behavior rather than the treatment of a known and diagnosed
40 physical disease of the brain.

1 (2) Modification of normal brain function or normal brain tissue
2 in order to control thoughts, feelings, actions, or behavior.

3 (3) Treatment of abnormal brain function or abnormal brain
4 tissue in order to modify thoughts, feelings, actions, or behavior
5 when the abnormality is not an established cause for those thoughts,
6 feelings, actions, or behavior.

7 Psychosurgery does not include prefrontal sonic treatment
8 wherein there is no destruction of brain tissue. The Director of
9 Mental Health shall promulgate appropriate regulations to assure
10 adequate protection of patients' rights in such treatment.

11 (h) To see and receive the services of a patient advocate who
12 has no direct or indirect clinical or administrative responsibility
13 for the person receiving mental health services.

14 (i) Other rights, as specified by regulation.

15 Each patient shall also be given notification in a language or
16 modality accessible to the patient of other constitutional and
17 statutory rights ~~which~~ *that* are found by the State Department of
18 Mental Health to be frequently misunderstood, ignored, or denied.

19 Upon admission to a facility each patient shall immediately be
20 given a copy of a State Department of Mental Health prepared
21 patients' rights handbook.

22 The State Department of Mental Health shall prepare and provide
23 the forms specified in this section and in Section 5157.

24 The rights specified in this section may not be waived by the
25 person's parent, guardian, or conservator.

26 SEC. 53. Section 5585.25 of the Welfare and Institutions Code
27 is amended to read:

28 5585.25. "Gravely disabled minor" means a minor who, as a
29 result of a mental disorder, is unable to use the elements of life
30 ~~which~~ *that* are essential to health, safety, and development,
31 including food, clothing, and shelter, even though provided to the
32 minor by others. Intellectual disability, epilepsy, or other
33 developmental disabilities, alcoholism, other drug abuse, or
34 repeated antisocial behavior do not, by themselves, constitute a
35 mental disorder.

36 SEC. 54. Section 6250 of the Welfare and Institutions Code is
37 amended to read:

38 6250. As used in this part, "persons subject to judicial
39 commitment" means persons who may be judicially committed
40 under this part as mentally disordered sex offenders pursuant to

1 Article 1 (commencing with Section 6331), sexually violent
2 predators pursuant to Article 4 (commencing with Section 6600),
3 or persons with intellectual disabilities pursuant to Article 2
4 (commencing with Section 6500) of Chapter 2.

5 Nothing in this part shall be held to change or interfere with the
6 provisions of the Penal Code and other laws relating to mentally
7 disordered persons charged with crime or to the criminally insane.

8 This part shall be liberally construed so that, as far as possible
9 and consistent with the rights of persons subject to commitment,
10 those persons shall be treated, not as criminals, but as sick persons.

11 SEC. 55. The heading of Article 2 (commencing with Section
12 6500) of Chapter 2 of Part 2 of Division 6 of the Welfare and
13 Institutions Code is amended to read:

14
15 Article 2. Persons with Intellectual Disabilities
16

17 SEC. 56. Section 6500 of the Welfare and Institutions Code is
18 amended to read:

19 6500. On and after July 1, 1971, ~~no~~ a person with an intellectual
20 disability may *not* be committed to the State Department of
21 Developmental Services pursuant to this article, unless he or she
22 is a danger to himself or herself, or others. For the purposes of this
23 article, dangerousness to self or others shall be considered to
24 include, but not be limited to, a finding of incompetence to stand
25 trial pursuant to the provisions of Chapter 6 (commencing with
26 Section 1367) of Title 10 of Part 2 of the Penal Code when the
27 defendant has been charged with murder, mayhem, aggravated
28 mayhem, a violation of Section 207, 209, or 209.5 of the Penal
29 Code in which the victim suffers intentionally inflicted great bodily
30 injury, robbery perpetrated by torture or by a person armed with
31 a dangerous or deadly weapon or in which the victim suffers great
32 bodily injury, carjacking perpetrated by torture or by a person
33 armed with a dangerous or deadly weapon or in which the victim
34 suffers great bodily injury, a violation of subdivision (b) of Section
35 451 of the Penal Code, a violation of paragraph (1) or (2) of
36 subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision
37 (a) of Section 261 of the Penal Code, a violation of Section 288
38 of the Penal Code, any of the following acts when committed by
39 force, violence, duress, menace, fear of immediate and unlawful
40 bodily injury on the victim or another person: a violation of

1 paragraph (1) or (2) of subdivision (a) of Section 262 of the Penal
2 Code, a violation of Section 264.1, 286, or 288a of the Penal Code,
3 or a violation of subdivision (a) of Section 289 of the Penal Code;
4 a violation of Section 459 of the Penal Code in the first degree,
5 assault with intent to commit murder, a violation of Section 220
6 of the Penal Code in which the victim suffers great bodily injury,
7 a violation of Section 18725, 18740, 18745, 18750, or 18755 of
8 the Penal Code, or if the defendant has been charged with a felony
9 involving death, great bodily injury, or an act ~~which~~ *that* poses a
10 serious threat of bodily harm to another person.

11 If the person with an intellectual disability is in the care or
12 treatment of a state hospital, developmental center, or other facility
13 at the time a petition for commitment is filed pursuant to this
14 article, proof of a recent overt act while in the care and treatment
15 of a state hospital, developmental center, or other facility is not
16 required in order to find that the person is a danger to self or others.

17 ~~Any~~ *An* order of commitment made pursuant to this article shall
18 expire automatically one year after the order of commitment is
19 made. This section shall not be construed to prohibit ~~any~~ *a* party
20 enumerated in Section 6502 from filing subsequent petitions for
21 additional periods of commitment. In the event subsequent petitions
22 are filed, the procedures followed shall be the same as with an
23 initial petition for commitment.

24 In any proceedings conducted under the authority of this article,
25 the person alleged to have an intellectual disability shall be
26 informed of his or her right to counsel by the court, and if the
27 person does not have an attorney for the proceedings, the court
28 shall immediately appoint the public defender or other attorney to
29 represent him or her. The person shall pay the cost for the legal
30 services if he or she is able to do so. ~~At any~~ *a* judicial proceeding
31 under the provisions of this article, allegations that a person has
32 an intellectual disability and *is* a danger to himself or herself or to
33 others shall be presented by the district attorney for the county
34 unless the board of supervisors, by ordinance or resolution,
35 delegates this authority to the county counsel.

36 SEC. 57. Section 6502 of the Welfare and Institutions Code is
37 amended to read:

38 6502. A petition for the commitment of a person with an
39 intellectual disability to the State Department of Developmental
40 Services who has been found incompetent to stand trial pursuant

1 to Chapter 6 (commencing with Section 1367) of Title 10 of Part
2 2 of the Penal Code when the defendant has been charged with
3 one or more of the offenses identified or described in Section 6500,
4 may be filed in the superior court of the county that determined
5 the question of mental competence of the defendant. All other
6 petitions may be filed in the county in which that person is
7 physically present. The following persons may request the person
8 authorized to present allegations pursuant to Section 6500 to file
9 a petition for commitment:

10 (a) The parent, guardian, conservator, or other person charged
11 with the support of the person.

12 (b) The probation officer.

13 (c) The Division of Juvenile Facilities, Department of
14 Corrections and Rehabilitation.

15 (d) ~~Any~~ A person designated for that purpose by the judge of
16 the court.

17 (e) The Secretary of the Department of Corrections and
18 Rehabilitation.

19 (f) The regional center director or his or her designee.

20 The request shall state the petitioner's reasons for supposing the
21 person to be eligible for admission thereto, and shall be verified
22 by affidavit.

23 SEC. 58. Section 6504 of the Welfare and Institutions Code is
24 amended to read:

25 6504. In all cases the court shall require due notice of the
26 hearing of the petition to be given to the person alleged to have an
27 intellectual disability. Whenever a petition is filed, the court shall
28 require notice of the hearing of the petition ~~as~~ *that* it deems proper
29 to be given to a parent, guardian, conservator, or other person
30 charged with the support of the person mentioned in the petition.

31 SEC. 59. Section 6504.5 of the Welfare and Institutions Code
32 is amended to read:

33 6504.5. ~~Wherever~~ *If* a petition is filed pursuant to this article,
34 the court shall appoint the director of a regional center for the
35 developmentally disabled established under Division 4.5, or the
36 designee of the director, to examine the person alleged to have an
37 intellectual disability.

38 Within 15 judicial days after his or her appointment, the regional
39 center director or designee shall submit to the court in writing a
40 report containing his or her evaluation of the person alleged to

1 have an intellectual disability. The report shall contain a
2 recommendation of a facility or facilities in which the person
3 alleged to have an intellectual disability may be placed.

4 The report shall include a description of the least restrictive
5 residential placement necessary to achieve the purposes of
6 treatment. In determining the least restrictive residential placement,
7 consideration shall be given to public safety. If placement into or
8 out of a developmental center is recommended, the regional center
9 director or designee simultaneously shall submit the report to the
10 executive director of the developmental center or his or her
11 designee. The executive director of the developmental center or
12 his or her designee may, within 15 days of receiving the regional
13 center report, submit to the court a written report evaluating the
14 ability of the developmental center to achieve the purposes of
15 treatment for this person and whether the developmental center
16 placement can adequately provide the security measures or systems
17 required to protect the public health and safety from the potential
18 dangers posed by the person's known behaviors.

19 The reports prepared by the regional center director and
20 developmental center director, if applicable, shall also address
21 suitable interim placements for the person as provided for in
22 Section 6506.

23 SEC. 60. Section 6505 of the Welfare and Institutions Code is
24 amended to read:

25 6505. Whenever the court considers it necessary or advisable,
26 it may cause an order to issue for the apprehension and delivery
27 to the court of the person alleged to have an intellectual disability,
28 and may have the order executed by a peace officer.

29 SEC. 61. Section 6506 of the Welfare and Institutions Code is
30 amended to read:

31 6506. Pending the hearing, the court may order that the alleged
32 dangerous person with an intellectual disability may be left in the
33 charge of his or her parent, guardian, conservator, or other suitable
34 person, or placed in a state hospital for the developmentally
35 disabled, in the county psychiatric hospital, or in any other suitable
36 placement, as determined by the court. Prior to the issuance of an
37 order under this section, the regional center and developmental
38 center, if applicable, shall recommend to the court a suitable person
39 or facility to care for the person alleged to have an intellectual
40 disability. The determination of a suitable person or facility shall

1 be the least restrictive option that provides for the person's
2 treatment needs and that has existing security systems or measures
3 in place to adequately protect the public safety from any known
4 dangers posed by the person. In determining whether the public
5 safety will be adequately protected, the court shall make the finding
6 required by subparagraph (D) of paragraph (1) of subdivision (a)
7 of Section 1370.1 of the Penal Code.

8 Pending the hearing, the court may order that the person receive
9 necessary habilitation, care, and treatment, including medical and
10 dental treatment.

11 Orders made pursuant to this section shall expire at the time set
12 for the hearing pursuant to Section 6503. If the court upon a
13 showing of good cause grants a continuance of the hearing on the
14 matter, it shall order that the person be detained pursuant to this
15 section until the hearing on the petition is held.

16 SEC. 62. Section 6507 of the Welfare and Institutions Code is
17 amended to read:

18 6507. The court shall inquire into the condition or status of the
19 person alleged to have an intellectual disability. For this purpose
20 it may, by subpoena, require the attendance before it of a physician
21 who has made a special study of intellectual disabilities and is
22 qualified as a medical examiner, and of a clinical psychologist, or
23 of two—~~such of these~~ physicians, or of two—~~such of these~~
24 psychologists, to examine the person and testify concerning his or
25 her mentality. The court may also, by subpoena, require the
26 attendance of other persons as it deems advisable, to give evidence.

27 SEC. 63. Section 6508 of the Welfare and Institutions Code is
28 amended to read:

29 6508. Each psychologist and physician shall receive for each
30 attendance mentioned in Section 6507 the sum of five dollars (\$5)
31 for each person examined, together with his or her necessary actual
32 expenses occasioned thereby, and other witnesses shall receive for
33 attendance those fees and expenses as the court in its discretion
34 allows, if any, not exceeding the fees and expenses allowed by
35 law in other cases in the superior court.

36 Any fees or traveling expenses payable to a psychologist,
37 physician, or witness as provided in this section and all expenses
38 connected with the execution of a process under the provisions of
39 this article, which are not paid by the parent, guardian, conservator,
40 or person charged with the support of the person supposed to have

1 an intellectual disability, shall be paid by the county treasurer of
2 the county in which the person resides, upon the presentation to
3 the treasurer of a certificate of the judge that the claimant is entitled
4 thereto.

5 SEC. 64. Section 6509 of the Welfare and Institutions Code is
6 amended to read:

7 6509. (a) If the court finds that the person has an intellectual
8 disability, and that he or she is a danger to himself, herself, or to
9 others, the court may make an order that the person be committed
10 to the State Department of Developmental Services for suitable
11 treatment and habilitation services. Suitable treatment and
12 habilitation services is defined as the least restrictive residential
13 placement necessary to achieve the purposes of treatment. Care
14 and treatment of a person committed to the State Department of
15 Developmental Services may include placement in ~~any~~ a state
16 hospital, developmental center, ~~any~~ a licensed community care
17 facility, as defined in Section 1502 of the Health and Safety Code,
18 or ~~any~~ a health facility, as defined in Section 1250 of the Health
19 and Safety Code, or any other appropriate placement permitted by
20 law. The court shall hold a hearing as to the available placement
21 alternatives and consider the reports of the regional center director
22 or designee and the developmental center director or designee
23 submitted pursuant to Section 6504.5. After hearing all the
24 evidence, the court shall order that the person be committed to that
25 placement that the court finds to be the most appropriate
26 alternative. If the court finds that release of the person can be made
27 subject to conditions that the court deems proper and adequate for
28 the protection and safety of others and the welfare of the person,
29 the person shall be released subject to those conditions.

30 The court, however, may commit a person who has an intellectual
31 disability who is not a resident of this state under Section 4460 for
32 the purpose of transportation of the person to the state of his or
33 her legal residence pursuant to Section 4461. The State Department
34 of Developmental Services shall receive the person committed to
35 it and shall place the person in the placement ordered by the court.

36 (b) If the person has at any time been found mentally
37 incompetent pursuant to Chapter 6 (commencing with Section
38 1367) of Title 10 of Part 2 of the Penal Code arising out of a
39 complaint charging a felony offense specified in Section 290 of
40 the Penal Code, the court shall order the State Department of

1 Developmental Services to give notice of that finding to the
2 designated placement facility and the appropriate law enforcement
3 agency or agencies having local jurisdiction at the site of the
4 placement facility.

5 (c) If the State Department of Developmental Services decides
6 that a change in placement is necessary, it shall notify in writing
7 the court of commitment, the district attorney, and the attorney of
8 record for the person and the regional center of its decision at least
9 15 days in advance of the proposed change in placement. The court
10 may hold a hearing and (1) approve or disapprove of the change,
11 or (2) take no action in which case the change shall be deemed
12 approved. At the request of the district attorney or of the attorney
13 for the person, a hearing shall be held.

14 SEC. 65. Section 6511 of the Welfare and Institutions Code is
15 amended to read:

16 6511. ~~Any~~A person who knowingly contrives to have a person
17 adjudged to have an intellectual disability under the provisions of
18 this article, unlawfully or improperly, is guilty of a misdemeanor.

19 SEC. 66. Section 6512 of the Welfare and Institutions Code is
20 amended to read:

21 6512. If, when a boy or girl is brought before a juvenile court
22 under the juvenile court law, it appears to the court, either before
23 or after adjudication, that the person has an intellectual disability,
24 or if, on the conviction of any person of crime by any court it
25 appears to the court that the person has an intellectual disability,
26 the court may adjourn the proceedings or suspend the sentence, as
27 the case may be, and direct some suitable person to take
28 proceedings under this article against the person before the court,
29 and the court may order that, pending the preparation, filing, and
30 hearing of the petition, the person before the court be detained in
31 a place of safety, or be placed under the guardianship of some
32 suitable person, on his or her entering into a recognizance for the
33 appearance of the person upon trial or under conviction when
34 required. If, upon the hearing of the petition, or upon a subsequent
35 hearing, the person upon trial or under conviction is not found to
36 have an intellectual disability, the court may proceed with the trial
37 or impose sentence, as the case may be.

38 SEC. 67. Section 6513 of the Welfare and Institutions Code is
39 amended to read:

1 6513. (a) The State Department of Developmental Services
2 shall pay for the costs, as defined in this section, of judicial
3 proceedings, including commitment, placement, or release, under
4 this article under both of the following conditions:

5 (1) The judicial proceedings are in a county ~~within which~~ *where*
6 a state hospital or developmental center maintains a treatment
7 program for persons with intellectual disabilities who are a danger
8 to themselves or others.

9 (2) The judicial proceedings relate to a person with an
10 intellectual disability who is at the time residing in the state hospital
11 or developmental center located in the county of the proceedings.

12 (b) The appropriate financial officer or other designated official
13 in a county described in subdivision (a) may prepare a statement
14 of all costs incurred by the county in the investigation, preparation
15 for, and conduct of the proceeding, including any costs of the
16 district attorney or county counsel and any public defender or
17 court-appointed counsel representing the person, and including
18 any costs incurred by the county for the guarding or keeping of
19 the person while away from the state hospital and for transportation
20 of the person to and from the hospital. The statement shall be
21 certified by a judge of the superior court and shall be sent to the
22 State Department of Developmental Services. In lieu of sending
23 statements after each proceeding, the statements may be held and
24 submitted quarterly for the preceding three-month period.

25 SEC. 68. Section 6551 of the Welfare and Institutions Code is
26 amended to read:

27 6551. (a) (1) If the court is in doubt as to whether the person
28 is mentally disordered or has an intellectual disability, the court
29 shall order the person to be taken to a facility designated by the
30 county and approved by the State Department of Mental Health
31 as a facility for 72-hour treatment and evaluation. Thereupon,
32 Article 1 (commencing with Section 5150) of Chapter 2 of Part 1
33 of Division 5 applies, except that the professional person in charge
34 of the facility shall make a written report to the court concerning
35 the results of the evaluation of the person's mental condition. ~~If~~

36 (2) *If* the professional person in charge of the facility finds the
37 person is, as a result of mental disorder, in need of intensive
38 treatment, the person may be certified for not more than 14 days
39 of involuntary intensive treatment if the conditions set forth in
40 subdivision (c) of Section 5250 and subdivision (b) of Section

5260 are complied with. Thereupon, Article 4 (commencing with Section 5250) of Chapter 2 of Part 1 of Division 5 shall apply to the person. The person may be detained pursuant to Article 4.5 (commencing with Section 5260), or Article 4.7 (commencing with Section 5270.10), or Article 6 (commencing with Section 5300) of Chapter 2 of Part 1 of Division 5 if that article applies.

If

(b) (1) If the professional person in charge of the facility finds that the person has an intellectual disability, the juvenile court may direct the filing in any other court of a petition for the commitment of a minor as a person with an intellectual disability to the State Department of Developmental Services for placement in a state hospital. In this case, the juvenile court shall transmit to the court in which the petition is filed a copy of the report of the professional person in charge of the facility in which the minor was placed for observation. ~~The~~

(2) The court in which the petition for commitment is filed may accept the report of the professional person in lieu of the appointment, or subpoenaing, and testimony of other expert witnesses appointed by the court, if the laws applicable to the commitment proceedings provide for the appointment by court of medical or other expert witnesses or may consider the report as evidence in addition to the testimony of medical or other expert witnesses.

If

(c) If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not affected with ~~any~~ a mental disorder requiring intensive treatment or does not have an intellectual disability, the professional person in charge of the facility shall return the minor to the juvenile court on or before the expiration of the 72-hour period and the court shall proceed with the case in accordance with the Juvenile Court Law.

~~Any~~

(d) An expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2 (commencing with Section 5600) of Division 5 and shall be reimbursed by the state as are other local expenditures pursuant to that part.

~~The~~

1 (e) *The* jurisdiction of the juvenile court over the minor shall
2 be suspended during ~~such~~ *the* time ~~as~~ *that* the minor is subject to
3 the jurisdiction of the court in which the petition for
4 postcertification treatment of an imminently dangerous person or
5 the petition for commitment of a person with an intellectual
6 disability is filed or under remand for 90 days for intensive
7 treatment or commitment ordered by the court.

8 SEC. 69. The heading of Article 4 (commencing with Section
9 6715) of Chapter 3 of Part 2 of Division 6 of the Welfare and
10 Institutions Code is amended to read:

11
12 Article 4. Persons with Intellectual Disabilities
13

14 SEC. 70. Section 6715 of the Welfare and Institutions Code is
15 amended to read:

16 6715. The court shall inquire into the financial condition of
17 the parent, guardian, or other person charged with the support of
18 a person committed as having an intellectual disability, and if it
19 finds the person able to do so, in whole or in part, it shall make a
20 further order, requiring him or her to pay, to the extent the court
21 considers the person able, the expenses of the proceedings in
22 connection with the investigation, detention, and commitment of
23 the person committed, and the expenses of the committed person's
24 delivery to the institution, and to pay to the county, at stated
25 periods, the sums the court deems proper, during the time the
26 person remains in the institution or on leave of absence to a
27 licensed hospital, facility, or home for the care of those persons.
28 This order may be enforced by further orders as the court deems
29 necessary, and may be varied, altered, or revoked in its discretion.

30 The court shall designate a county officer to keep a record of
31 payments ordered to be made, to receive, receipt for, and record
32 the payments made, to pay over the payments to the county
33 treasurer, to see that the persons ordered to make the payments
34 comply with the orders, and to report to the court any failure to
35 make the payments.

36 SEC. 71. Section 6717 of the Welfare and Institutions Code is
37 amended to read:

38 6717. The cost necessarily incurred in determining whether a
39 person is a fit subject for commitment and securing his or her
40 commitment, is a charge upon the county ~~whence~~ *where* he or she

1 is committed. These costs include the fees of witnesses, medical
2 examiners, psychiatrists, and psychologists allowed by the judge
3 ordering the examination. If the person sought to be committed is
4 not an indigent person, the costs of the proceedings are the
5 obligation of that person and shall be paid by him or her, or by his
6 or her guardian or conservator, as provided in Division 4
7 (commencing with Section 1400) of the Probate Code, or shall be
8 paid by persons legally liable for his or her maintenance, unless
9 otherwise ordered by the judge.

10 SEC. 72. Section 6718 of the Welfare and Institutions Code is
11 amended to read:

12 6718. The State Department of Mental Health shall present to
13 the county, not more frequently than monthly, a claim for the
14 amount due the state by reason of commitments of persons with
15 intellectual disabilities, that the county shall process and pay
16 pursuant to the provisions of Chapter 4 (commencing with Section
17 29700) of Division 3 of Title 3 of the Government Code.

18 SEC. 73. The heading of Article 4 (commencing with Section
19 6740) of Chapter 4 of Part 2 of Division 6 of the Welfare and
20 Institutions Code is amended to read:

21
22 Article 4. Persons with Intellectual Disabilities
23

24 SEC. 74. Section 6740 of the Welfare and Institutions Code is
25 amended to read:

26 6740. The court shall attach to the order of commitment of a
27 person with an intellectual disability its findings and conclusions,
28 together with all the social and other data it has bearing upon the
29 case, and the same shall be delivered to the place of commitment
30 with the order.

31 SEC. 75. Section 6741 of the Welfare and Institutions Code is
32 amended to read:

33 6741. The sheriff or probation officer, whichever is designated
34 by the court, may execute the order of commitment with respect
35 to a person with an intellectual disability.

36 In ~~any~~ a case in which the probation officer executes the order
37 of commitment, he or she shall be compensated for transporting
38 the person to a state hospital in the amount and manner ~~in which~~
39 *thata* sheriff is compensated for similar services.

1 SEC. 76. Section 7275 of the Welfare and Institutions Code is
2 amended to read:

3 7275. The husband, wife, father, mother, or children of a patient
4 in a state hospital for the mentally disordered, the estates of these
5 persons, and the guardian or conservator and administrator of the
6 estate of the patient shall cause him or her to be properly and
7 suitably cared for and maintained, and shall pay the costs and
8 charges for transportation to a state institution. The husband, wife,
9 father, mother, or children of a patient in a state hospital for the
10 mentally disordered and the administrators of their estates, and the
11 estate of the person shall be liable for his or her care, support, and
12 maintenance in a state institution of which he or she is a patient.
13 The liability of these persons and estates shall be a joint and several
14 liability, and the liability shall exist whether the person has become
15 a patient of a state institution pursuant to the provisions of this
16 code or pursuant to the provisions of Sections 1026, 1368, 1369,
17 1370, and 1372 of the Penal Code.

18 This section does not impose liability for the care of persons
19 with intellectual disabilities in state hospitals.

20 SEC. 77. Section 7351 of the Welfare and Institutions Code is
21 amended to read:

22 7351. Wherever in any provision of this code heretofore or
23 hereafter enacted the term “parole” is used in relation to the release
24 of a patient from a state hospital, it shall be construed to refer to
25 and mean “leave of absence.” A judicially committed patient or
26 patient with an intellectual disability granted a leave of absence
27 on or after July 1, 1969, and a patient on leave of absence as of
28 July 1, 1969, may at any time during the period of the leave of
29 absence be recalled and returned to the hospital.

30 Upon the release of a judicially committed patient as granted by
31 the medical director of a state hospital, on leave of absence or
32 discharge upon any of the grounds provided in this article, in
33 accordance with the rules and regulations prescribed by the
34 department, the superintendent shall issue to or on behalf of the
35 judicially committed patient a document stating the general terms
36 or limitations of the leave of absence, or a certificate stating the
37 general condition of, or the reason for, the discharge of the
38 judicially committed patient.

39 SEC. 78. Section 11014 of the Welfare and Institutions Code
40 is amended to read:

1 11014. To the extent that any provision of this part prohibits
2 the granting of aid to persons confined in a public institution for
3 tuberculosis or mental disease or as a result of the diagnosis of
4 tuberculosis, intellectual disability, or psychosis permitted by
5 federal law, ~~such~~ *that* provision shall be inoperative.

O